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ABSTRACT

This report summarizes the results of a 1-year exploratory research project addressing the central question of why women prisoners are less litigious than men. Chapters 1 and 2 present the major research questions, i.e., the legal concerns of women prisoners, resources available to female inmates, and factors related to the availability and use of legal resources, along with a review of the relevant research. Chapter 3 describes the general approach of the study (an exploratory, in-depth study of four prisons (2 all-female; 2-coed) in the Northeast) and defines the research methodology: extensive interviews with commissioners, superintendents, prisoners' attorneys, counselors, law librarians and law clerks, and the inmates; and detailed on-site examination of legal resources in terms of materials and personnel, and the practical circumstances of their availability. Chapter 4 presents the legal needs of female inmates, as ranked by them in six major categories: (1) child custody and family; (2) good time/jail credit; (3) prison programs; (4) appeal and sentencing; (5) disciplinary issues; and (6) detainers and warrants. Prison officials' attitudes to these six issues are also presented. Chapter 5 deals with the legal resources of female inmates, defined as all materials, personnel, and policies facilitating access to the courts. Chapter 6 discusses the availability and actual use of these legal resources including the effects of inmate characteristics, and attitudes and directives of the correctional systems. A final section summarizes the study's findings and provides recommendations. The appendices include the research questionnaires. (WAS)

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THE LEGAL ISSUES OF FEMALE INMATES

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LEGAL ISSUES OF FEMALE INMATES

Summary

Objectives and Rationale (Chapters I and II)

This report summarizes the results of a one-year exploratory research project addressing the central question: Why are women prisoners less litigious than men? While there has been a dramatic upsurge, in recent years, of litigation by male inmates, no comparable trend has been evident for their female counterparts. To date no research has been conducted to clarify whether this is due to women having fewer legal concerns or whether women do, in fact, have issues to litigate but lack the institutional or personal resources to do so.

The research did not attempt systematic comparisons of male and female inmates or prisons; rather, it sought to lay the groundwork for understanding women's involvement in litigation by identifying the extent and nature of their legal needs and concerns, the legal resources available for pursuing such concerns, and personal and institutional factors related to the utilization of such resources.

Approach (Chapter III)

Given the limited resources of this project and the relatively uncharted area of inquiry, an exploratory in-depth study of four female prisons in the Northeast was undertaken. The project's emphasis on a systems context entailed extensive interviews with key actors in each of the four prison systems: commissioners, superintendents, prisoner's attorneys, prison counselors, prison law librarians and law clerks, and -- most importantly -- the inmates themselves. In all, 109 female inmates were interviewed in depth. In addition to interviews and questionnaires, the study involved detailed on-site examination of legal resources, both in terms of materials and personnel, and the practical circumstances of their availability.

The sample of four prisons included both small and large institutions (from one housing only ten women to another housing 450), all-female and co-ed prisons, various security classifications, and both urban and relatively more rural locations. While such a heterogeneous sample of prisons from one region of the country allows for only tentative conclusions regarding women's prisons and their inmates in general, the in-depth systems approach made it possible to examine a wide range of potentially significant factors and resulted in an integrated understanding of the interaction of many variables. These four "case studies" yielded a large number of findings as well as a model for investigation which can serve as a basis for subsequent replication and validation studies in other parts of the country and other prison systems.

Legal Needs of Female Inmates (Chapter IV)

The many possible areas in which inmates might have needs for access to the courts were grouped into six major legal need categories. Each inmate was asked to rate the importance of each category to herself and to her prison mates and an index of importance was thus obtained. Results showed that inmates with minor children (62% of the sample) ranked legal needs categories in the following order:

rank 1: Child Custody and Family Issues
rank 2: Good Time/Jail Credit Issues
rank 3: Prison Programs Issues
rank 4: Appeal & Sentencing Issues
rank 5: Disciplinary Issues
rank 6: Detainers and Warrants

The ranking by inmates without minor children was identical except that the importance of the first two issues was reversed. The mean ratings by all inmates showed that all six issues were considered distinctly important, i.e., all ratings were at or above the mid-point of the rating scale. Three levels of importance emerged: good time and child/family matters were the most intense and widespread areas of concern; a middle range of concerns encompassed prison programs, appeals, and disciplinary issues; a less pressing but nevertheless important area of concern was detainers and warrants.

When prisons were analyzed separately, some differences in ratings (and thus rankings) were found. Given the project's emphasis on collecting data on many aspects of each prison system, it was possible to relate these differences to distinct aspects of each institution and of the particular profile of the inmate population, suggesting that inmates' ratings were sensitive and reliable indicators of real conditions.

In addition to the global ratings of legal needs, interviews with inmates addressed two of the six issues in greater depth: child and family issues and prison programs. While the other six categories were expected to involve predictable issues which would hardly differ for men and for women, little is known about the distinct concerns women might have about family matters and prison programs. Findings regarding family issues suggested that prison officials may frequently and incorrectly assume these to be largely emotional rather than legal issues. The inmates' accounts of their dissatisfactions with prison programs such as jobs, training, and medical care pointed to a tendency to neglect women's real needs and the potential for litigation based on sex discrimination.

Assessments by non-inmate prison actors (commissioners, superintendents, prisoner's attorneys, and counselors) of the importance of the six legal needs categories to female inmates revealed a general pattern of misperception. Except for family matters, all issues tended to be underrated in importance and their relative importance misjudged. Since these respondents were also asked to assess the importance of the six issues to male inmates, it was possible to detect a clear bias that most issues would be less important to women than to men.

In sum, women prisoners indicated a serious degree of concern about all of the six legal needs categories and reported a wide range of situations which may constitute grounds for legal action. Insofar as those making and implementing prison policies tended to make incorrect assessments of female prisoners' legal needs, the provision of legal resources to meet those needs was likely to be based on faulty assumptions. Finally, while most of the women had several serious legal needs, the energy required to pursue only one -- and the most pressing one tended to involve their children -- made it unlikely that the other issues would be dealt with at all.

Legal Resources of Female Inmates (Chapter V)

Legal resources were defined as all materials, personnel, and policies facilitating access to the courts: from law books, duplicating equipment, and rules governing use of the telephone, to law librarians, public defenders, prisoners' rights groups, private attorneys, and jailhouse lawyers. These resources were assessed through actual examination of law libraries in the four women's prisons; through face-to-face and telephone interviews with various personnel, as well as mailed questionnaires to prisoners' programs; through analysis of policies and directives governing use of resources; and through interviews with inmates regarding their knowledge about and the practical availability of these resources. The aim was to trace the opportunities and obstacles which a typical inmate would encounter within a system in her actual attempt to have access to and utilize existing resources.

The pictures that emerged from this in-depth study differed considerably for each of the four prison systems. Each system had a unique set of components, missing links, and interrelationships between them, requiring a wholistic analysis for an integrated understanding. (The full research report depicts and analyzes each system in detail.)

Yet certain crucial commonalities were found. Each system was a patchwork wherein certain structural weaknesses and missing links in the provision of legal resources prevented meaningful use of existing materials and personnel. Where there were adequate materials in one area, the supporting materials necessary to their use were absent. For example, the best introductory materials were in the law libraries that had virtually no materials that could be used beyond the introductory stage; conversely, where more sophisticated materials were present, the necessary introductory material was missing. If the library had adequate materials, these were rendered useless due to extremely limited access or the lack of a law librarian, or the difficulty of using duplicating equipment or typewriters. Where these obstacles were minimal, legal personnel to process a case were non-existent. Where legal personnel were in theory available, inmates either were uninformed of this fact or were subject to mail and telephone policies which made access to them nearly impossible. If inmates could contact a legal services program and were made aware of this, the services offered were limited to administrative remedies. The factors necessary to a viable legal assistance model were seriously deficient in one way or another in every program, such that positive aspects were thwarted by negative ones in the same program.

Female inmates with legal needs -- and the research established that such needs are widespread and varied -- face severe obstacles in their attempt to resolve these needs through legal channels. The provision of legal resources is largely haphazard, missing essential components, and governed by unpredictable and informal procedures. A woman who attempts to pursue a legal issue needs to maintain a working relationship with others in order to get access to whatever the system can provide her in the various and innumerable elements necessary in every step of the way to the courthouse. Yet she risks alienating a component of the system if she assumes an aggressive posture. She is caught between this counterproductive stance and the risk of never achieving her goals by not insisting on her needs. The fact that many female inmates are thwarted and discouraged by the multitude of obstacles facing them, by repeated frustration, and by fear of the negative consequences resulting from assertive insistance is unfortunate not only for those women but for women's prisons in general. Inadequate provision of legal resources was often excused by the claim that women don't use the resources anyway. It should be understood that lack of utilization is more likely a reflection of the limitations of those resources than of a lack of need on the part of female inmates. This leads to the third area addressed in this report: factors related to the availability and utilization of legal resources.

Availability and Utilization of Legal Resources (Chapter VI)

The systems analysis approach of this research was particularly well suited to studying factors related to the availability and utilization of legal resources, as well as their interrelationship. Availability was seen to be a function of a) resources, attitudes, and directives of a given correctional system and its administrators, and

b) actual utilization by inmates. That is, where resources are limited, inmates will not only make little use of them but also lack the resources to demand better resources, and administrators will feel justified in keeping resources limited; where resources are adequate, inmates will tend to use them, expect them and press for improvements, to which administrators are likely to be somewhat responsive. The four prison systems provided extensive evidence for this circular relationship.

Actual utilization of resources was seen to be a function of both the availability of such resources and characteristics of the inmates. While legal activism is relatively rare among women prisoners in general, some women show much determination to use legal channels to secure their rights. What is different about these women? On the basis of inmates' interview responses to questions such as whether they had ever tried to contact a lawyer, used the law library, used prison grievance procedures, etc., a legal activism score was assigned each inmate. Inmates whose scores fell above one standard deviation of the mean were labelled "legally active." This group was compared to the low-to-moderately active inmates on a number of variables and the following findings emerged:

The relative importance assigned to the six legal needs categories did not differ between the two groups; that is, both legally active and less active inmates largely shared the same legal needs and concerns. Legally active inmates tend to be more highly educated, tend more frequently to have held fulltime jobs before incarceration, and were more likely to have minor children than their less active prison mates. Data on inmates' criminal histories showed the legally active to be somewhat more likely to have committed violent crimes and to have had no previous interaction with the criminal justice system through convictions or incarcerations; yet they tended to be serving longer sentences. Their sophistication about legal matters tended to be greater and their general attitude towards the workings of the law was one of skepticism but of confidence in their ability to make it work for them. There were a number of indications that the legally active inmates were generally more highly motivated to take control of their lives: they were more likely to be taking classes, to ask others for legal advice, and to have appealed their convictions. The picture that emerged was that legally active female inmates were not resigned to just "doing their time;" that they brought with them a level of education, general sophistication, and motivation that enhanced their capacity to make use of existing resources; and that these women, fresh to prison life and facing long sentences, had not been "institutionalized to passivity" as many of their sisters had.

Nevertheless, inmate characteristics are only one part of the equation. Some prisons offer such minimal resources that hardly any inmate will succeed in pressing a case; other prison systems are relatively more responsive to their inmates' needs in general so that the pursuit of legal issues becomes feasible for a wider range of inmates and fewer of them are penalized for not having benefited from an advantaged background. This relationship between resource availability and inmate characteristics was evident from close examination of each prison. In Institution A, for example, a relatively favorable "match" was found between legal resources and the inmate profile: 22% of the inmates fell into the "legally active" category. This could be traced in part to the combination of reasonably adequate resources and the presence of relatively more educated inmates serving first, albeit long, sentences. In Institution B, somewhat fewer inmates (18%) were "legally active" by the standard adopted. The inmates' generally low level of education and their criminal histories combined to make it less likely that available resources were adequate to meaningful utilization. For example, while this prison, being in an urban location, had external legal resources theoretically available, the internal support services required for approaching and making meaningful use of the resources were insufficient for most of the inmates. Only one inmate in Institution C qualified for the assignation "legally active," and inmates in this institution had the lowest average activism score. This prison provided an illustration of the principle that even educated and motivated inmates need a fertile arena for legal action. Inmate background characteristics were favorable but legal resources were very poor. In fact, a number of actual deterrants to legal activism were identified. Finally, Institution D was an example of a combination of inmate characteristics that showed little potential for legal action and a near absence of any legal resources whatsoever. Not surprisingly, none of the inmates were "legally active."

Conclusions and Recommendations (Chapter VII)

This research project set out to explain the relatively low level of litigation by women in prison. On the basis of extensive data collected in the course of interviews with 109 female inmates and of detailed examination of each of four women's prison systems, a number of important, though tentative, conclusions could be drawn. It was found that women in prison have a wide range of critical legal needs and concerns, yet do not have adequate resources available to deal effectively with them. The research further indicated that utilization of existing resources is directly affected by an array of variables, some related to the inmates' own characteristics and others related to institutional factors. Administrators at both the state and institutional levels, as well as others within the criminal justice system, demonstrated a general lack of understanding of the nature and extent of female inmates' needs and concerns, and this appeared to have a major impact on resource provision.

Six legal needs areas were investigated. Four of these (good time/jail credit, appeals, disciplinary issues, and detainers/warrants) tended to be rated as less important to women than to men by key prison officials, even though the women themselves assigned considerable importance to them. There appeared to be every reason for women and men to be equally as much concerned about and needing resources for these four issue areas. In addition to these four areas, which women share with men, women had an additional set of concerns which men are not as burdened by. Many aspects of prison programs (an area that was also underestimated in its importance to women) appeared to be seriously deficient and inequitable for women. Finally, women tended to ascribe the greatest urgency to child custody and family matters, a need area that prison officials tend to recognize as more important to women than to men, but for which they do not know how or are unwilling to provide the necessary resources. Administrators and legal personnel seemed generally more attuned to criminal than to civil issues. The fact that women's most pressing concerns tend to be in civil matters, and in matters that are not traditionally resolved in the courts, can explain part of the variance in litigation by male and female prisoners.

Nevertheless, women also share with men the kinds of concerns that have traditionally been resolved through litigation. Their relative lack of legal action was related to two sets of factors. First, the legal resources in each of the four prisons were inadequate in some critical way. Even in the best of these prisons -- and some were distinctly more inadequate than others -- a crucial link necessary to the pursuit of some issue through the innumerable steps leading to the courthouse was missing. Second, the inmates themselves were characterized by varying degrees of ability and motivation to use existing resources. Certain inmate characteristics appeared to be a necessary but not sufficient condition for legal action: without adequate resources, no amount of skill and motivation could succeed.

A serious question of justice is raised by these findings. Legally active inmates tended to be from more advantaged backgrounds and tended to be serving longer sentences. Should disadvantaged inmates be further penalized by a more difficult access to legal resources? Since legal resources were most adequate in prisons housing women serving longer sentences, do women with shorter sentences -- and presumably lesser crimes -- not deserve at least equal legal resources?

The systems approach of the research made it possible to detect patterns of interaction between resource availability and utilization. These patterns can be labeled as being vicious cycles, whereby the absence of resources was related to low levels of legal activity by inmates, which, in turn, were cited as justification for the continuation of policies that keep legal resources inadequate.

The findings of this research suggested a number of recommendations. The aim of the project was not to identify ways to increase litigation by female inmates: rather, its aim was to identify the legal needs of women in prison and to determine what modes of resolution -- whether through the courts or through other internal or external mechanisms -- were available to them. Given the finding on the one hand, that women have needs that parallel those of men as well as additional needs that are distinct from those of men, and, on the other hand, that those responsible for making prison policies have little understanding of the nature and extent of women's needs, it is hardly surprising that the provision of legal resources is seriously inadequate.

A workable, affordable model of legal resource provision can, however, be designed if it is based on a realistic assessment of women's needs and constraints. Legal resources must consist of more than books and lawyers -- they must include accurate information on how and when to use existing materials and personnel. They must also include support services which enable women to track and manage concerns such as child and family matters so that actual litigation can be averted. Once implemented, resources must be assessed in terms of how they actually function, not how they are designed to function on paper.

Finally, while women in prison have heretofore appeared generally passive and resigned, the evidence of this study points to a changing profile of inmate characteristics. Women are growing increasingly aware of their third class status -- second class because they are in prison, and third class because they are women -- and growing increasingly alert to their rights. Prison policy makers and administrators, in their attempt to serve justice, can only gain by coming to understand better the needs and aspirations of their female inmates.

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CHAPTER ONE:

INTRODUCTION

This report presents the results of a year-long research project designed to explore reasons for the lack of litigation by women in prison. The impetus for the study arose out of research conducted by the principal investigator over the past ten years concerning the extent of legal resources available to and level of legal activism among female inmates.

Initial interest within the corrections field regarding the extent of prisoners' litigation broadened and intensified following the Supreme Court's 1977 Bounds v. Smith decision on inmates' right to access to the courts. The Court found that prisoners' constitutional right to access requires they be provided with law libraries and/or legal personnel to effectuate such access. Beyond calling attention to the issue of inmate litigation, the impact of Bounds v. Smith on the correctional and judicial systems is apparent in the flood of prisoners' suits that have followed in its wake.[1]

Yet this increase in litigation -- a trend which began in the early seventies and was fueled by the decision -- has not been reflected in the number of suits filed on behalf of female inmates. In fact, the relationship between women in prison and the legal process has received very little attention, generally only appearing cursorily in the broader context of the general (male) prison population. Therefore, the lack of a concomitant increase in female prisoners' suits provides the central question to be addressed by this research:

Why are women prisoners less litigious than men?

Research Goals

The goal of the research was to explore the possible reasons for this disparity. We narrowed the field of possible causes down to those which we had reason to believe would have the most significant impact on women's involvement in litigation and which were amenable to systematic investigation within a brief and small-scale research project such as this. We limited our inquiry to an exploratory study of three major hypotheses:

1) Women may have fewer or different kinds of legal concerns.
2) Women may have fewer legal resources available to them than do men.
3) Women may be hindered from using legal resources to meet their legal needs for a number of environmental and attitudinal reasons: their apparent passivity may be based on their perception that legal action is impossible or too cumbersome and complex, and, in any case, relatively futile.

There are likely many other systemic, environmental, and personal factors that can help to explain the disparity between females' and males' litigiousness. Given the limited time and resources of this year-long project, however, we chose to explore only the above domains, which gave promise of yielding useful results and upon which subsequent studies of this issue could be built.

True tests of these hypotheses involve a two-step research approach before female/male comparisons can be attempted. First, basic data need to be collected regarding legal concerns of women inmates, the resources available to them, and the factors influencing the use and accessibility of those resources. Then, similar data on male prisoners and prisons are required for meaningful female/male comparisons. Since such data on women prisoners are almost non-existent and such data on men often spotty, the time and resources necessary to provide meaningful data for indepth comparisons would be prohibitively high for a one-year project such as this.

Further, even if such data were available, attempting comparisons between female and male prisons raises a number of difficult issues, because of pervasive differences in institution size, classification of inmates, prison conditions and facility siting, to name only a few.

This project, therefore, limits itself to the objective of making a significant beginning in answering the following questions _about female inmates only_:

1. What are the legal concerns of female inmates?
2. What are the legal resources available to women?
3. What factors appear to influence the accessibility of and actual use of these resources?

Research Approach

Since these questions have not been systematically addressed previously, the research project seeks to make a contribution not only in terms of substantive information, but also in terms of a methodology that can fruitfully address these and related questions.

The key features of the methodology cover three broad areas. First, rather than applying models of research previously used for male inmates, the project utilized an approach that recognizes the differences between female and male environments and conditions. Thus, allowance was made for the emergence of possibly new and distinct issues, as well as the fullest examination of common issues as they pertain to female inmates.

Next, our research model conceptualizes prisoners' litigation as occurring in and being influenced by a systems context. The correctional system, as any system, is comprised of a combination of components or "actors," each with its own attributes which affect every other component; and, therefore, the major factors which contribute to the reluctance of women to seek legal redress can stem from characteristics of any single component, but will be reflected throughout the system. For this reason, each key actor in the system must be identified and their attributes which influence legal activism be examined. We investigated the attitudes of a variety of key actors in the prison system, from commissioners to inmates. We looked at the relationship between official directive and implementation of policy and examined the extent to which attitudes seem to be created by and to reinforce the operating structure.

Finally, in keeping with the integrity of the systemic approach adopted, we chose to conduct a limited number of indepth studies of entire prison systems affecting female inmates, rather than attempting to produce massive superficial data by undertaking a survey of a large number of institutions and actors. In this way, we were able to identify patterns in the systems we examined, which, while not warranting definitive conclusions as to nationwide trends, can nevertheless suggest fruitful hypotheses and research paradigms for subsequent studies of other prison systems.

Major Research Questions and Their Rationale

1. What are the legal concerns of women prisoners?

A meaningful approach to this question requires that it be addressed from several different perspectives:

a. Anticipated Issues. What issues can female inmates be expected to be concerned about, even if they have not themselves conceptualized such issues as legitimate legal concerns? The potential causes for legal challenges need to be identified before the degree to which they affect women in prison can be determined. Therefore, those issues which have given rise to challenges by male inmates serve as a starting point for identifying areas of potential concern to female inmates. Given the range of suits brought by male prisoners regarding such issues, we examined whether there was reason to believe that female inmates would face similar issues, such as conditions of confinement, appeal matters, good time and jail credit time, civil matters, parole and release matters, and disciplinary action.

In addition, there are issues that can be expected to affect female inmates disproportionately. These issues may not be of such significant concern to men, but may be issues for women -- in addition to those which affect both female and male inmates. These include child custody matters and conditions prevalent only in facilities for women, such as inadequate access to jobs and educational programs, recreational opportunities, and medical care.

b. Issues perceived by officials. Those issues which are perceived as being important to female inmates by key actors in the prison system (i.e., commissioners, superintendents, prisoners' attorneys and prison staff) may significantly influence female inmates in their conceptualization of their concerns as legitimate legal concerns. Therefore, those areas identified by these people as legitimate areas of legal concern were examined.

c. Inmates' concerns. These are the issues which female inmates themselves perceive as legitimate legal issues. It is possible that female inmates experience serious concern about a number of issues without being aware that these issues warrant legal action.

2. What resources are available to female inmates?

Regardless of the number and range of legal concerns warranting litigation for female inmates, we need to know whether female inmates have the resources necessary to pursue legal channels. In order to provide a meaningful assessment of the adequacy of legal resources available to women, a number of subsidiary questions must be addressed:

a. What legal resources are considered adequate for meaningful access to the courts? To answer this requires an examination of standards that have been recommended by knowledgeable professional groups in the criminal justice and judicial fields, standards that have been recognized by and adhered to by the corrections systems. The question also calls for formulation of some educated assumptions as to what resources are necessary for women in prison.

b. What resources are, in fact, available to women in prison? In terms of legal materials, this question requires an assessment of the law library collection actually available to inmates, as well as an examination of the circumstances under which it can be used. In addition, the availability of legal personnel must be considered with attention given to the type of services provided, the extent to which the legal assistance offered is accessible to women, and the explicit and inherent limitations placed on both assistance programs and individual legal personnel. For both materials and personnel, the assessment of resources is made with consideration of the total situation affecting their use.

3. What factors appear to be related to the availability and actual use of legal resources?

The research team expected legal resources to vary considerably from prison system to prison system. We anticipated that factors such as the type and size of the institution, its proximity to urban areas, its history (including involvement with litigation), and the extent of the state Department of Corrections' involvement in provision of resources would all prove important. It was, thus, of interest to identify factors such as these -- whether they exist within the prison or outside of it -- that might bear a relationship to the facilities' provision of legal resources and the inmates' use of those resources. In addition, we expected that the attitudes of the inmates themselves toward the necessity and usefulness of litigation, as well as the impact of other key actors' attitudes on inmate perceptions, would influence provision and use of resources.

The relationship, then, was conceived of as being a circular one where positive attitudes leading to more legal action would in turn promote better provision of resources and would, in turn, lead to better and more frequent use of them. Similarly, limited resources might lead to a sense of futility on the part of inmates, resulting in less legal activism and less demand for better resources, and, therefore, less opportunity for legal actions. Thinking of provision and use of resources as circular in nature meant we needed to consider the complete cycle, as opposed to the individual configurations that would appear at any point at which the cycle stopped, or broke down. So, it was not the goal of the project to determine the starting point which led to a state of inmate legal activism; we determined, instead, to identify the significant components of the cycle and their relationship to the entire picture of female inmates' legal activism.

Summary

The project's goal of beginning to answer the three major questions discussed above and the subsidiary questions contained in each guided our development of a methodology that would address the entire system in operation. We wanted to gather information that would not only answer each of the questions, but would also look at the relationship between them. Our methodology recognizes not only the systems context within which legal concerns, resources and activism exist, but also the peculiar characteristics of that system that apply to female inmates. In the next chapter, we will address the two major components of our central question -- prisoner litigation in general and female prisoners' relationship to it.

CHAPTER TWO:

PRISONER LITIGATION AND THE FEMALE PRISONER: RESEARCH REVIEW

Introduction

The inherent assumption in our central question -- that women are less litigious than men -- is based on a review of the literature, research and data related to prisoner litigation. This section will present the information available as to the current status of inmates' litigation, with an eye towards establishing and supporting the premise that women are less active legally than their male counterparts. Further, the situation of the female prisoner will be explored in order to present a comprehensive overview of the peculiarities of incarceration of women and the legal concerns and actions that have appeared to date.

Prisoners' Suits: An Overview

One of the impacts of the 1977 Bounds v. Smith decision appears to have been to facilitate an already burgeoning flow of inmates' suits to state and federal courts. In the ten years after 1970, the total number of prisoners' suits rose dramatically, increasing from 16,000 to more than 23,000.[2]

Of these, more than 80% (18,500) were filed by state prisoners, and of that number 11,000 were filed for civil rights issues. This growth in cases claiming a violation of civil rights within prisons, brought as Section 1983 petitions, represents the largest increase in inmates' suits -- a jump of about 500% in the last decade.[3] In New York State, the number of cases filed over prison conditions alone in 1978 was more than 2,300, and in 1979 the New York Prisoners' Legal Services Project handled over 7,000 cases.[4]

In one study over 90% of such cases never reached an evidentiary hearing or a trial[5] although there has emerged a small number of successful cases which have made or are making some impact on prison systems. In a growing body of inmates' rights laws, inmates are achieving rights which they never before possessed.

Several of these class action suits have been quite far-reaching in their conclusions and have resulted in entire penal systems being declared unconstitutional in Alabama, Arkansas, Florida, New Hampshire, Rhode Island, and Tennessee. In addition, penitentiaries in 12 states have been placed under court orders, and class action suits are pending in about 11 other states.[6]

While exact figures are not available as to the number of suits filed by or on behalf of female inmates, it is commonly accepted that women have been plaintiffs in a surprisingly small number of suits. Judicial observers have noted that there has been a "glaring absence of cases brought on behalf of women in the growing body of prisoners' rights law,"[7] a situation that continues to exist. Furthermore, since most class action suits are filed on behalf of male prisoners against specific institutions, their results are not applicable to women inmates housed in separate institutions.[8] Even the suits with results that may extend to other institutions often involve issues that are not applicable to female inmates due to differences between facilities for women and those for men and the practices that exist in each.

Increased Numbers of Prisoners

A major factor contributing to the growth in number of prisoners' suits is, clearly, the increased number of those incarcerated in recent years. In 1980, the U.S. Bureau of Prisons reported the number of men in federal and state prisons increased 54% over the prison population of 1970, and in the same decade the number of incarcerated women more than doubled to more than 14,000 in prisons and a total of 23,000 women in all correctional facilities.[9]

There has also been a steady increase in the number of prisons, despite recommendations of the Advisory Commission on Standards and Goals and other groups advocating a moratorium on prison construction.[10] While the increase in prisons was intended to alleviate overcrowding and related unacceptable conditions of confinement, overcrowding still remains a major problem.[11] It is likely that both the increase in the number of prisoners and the attendant worsening conditions of confinement are major factors in the increase in prisoners' suits. However, prisons have always suffered from overcrowding, and this fact alone is insufficient to explain why prisoners would resort to legal processes to resolve their complaints.

Changes in Judicial Response

Another major factor to consider in looking at increased prisoner litigation is the change in judicial response which began in the late sixties and early seventies and laid the groundwork for the judicial activism that followed. The trend began with some members of the judiciary moving away from the established non-interventionist approach in states' prison administration issues and becoming increasingly active in overseeing change within the institutions.[12]

While there is some debate among judicial observers regarding the extent of the move from the "hands off" doctrine to a more active stance, in some states the judiciary has prompted recalcitrant administrators to more broadly entertain prisoners' legal issues. With the eye of the judiciary focused on entire prison systems, considerable legitimacy has been afforded inmates with legal claims. Where the clear message from the courts previously was that wide latitude would be given administrators in matters of prison administration, the message became that the courthouse doors are open to prisoners with complaints of unfair treatment at the hands of administration. The involvement of the courts has resulted in more decisions regarding prisoners' rights, and these, in turn, establish precedent for more legal arguments on behalf of prisoners.

Despite the increased number of suits filed and the judicial turnaround on prisoners' complaints, it should be noted again that the vast majority of suits filed by inmates are unsuccessful. While research in this area is scanty, the few studies which have investigated prisoners' suits reveal that attempts to seek relief in the courts remain, on the whole, fairly fruitless. Many of the petitions are still filed by the inmate on her or his own behalf and are deemed frivolous, incoherent and incomplete. Despite federal and state judges' decrying the "endless flow of petitions"[13] from prisoners, one study showed that only 4% of habeas corpus writs proceed to trial,[14] and only 18 out of 664 Section 1983 petitions reached either an evidentiary hearing or a trial.[15]

The federal government moved in January 1982 to respond to the situation by proposing restrictions on inmates' ability to file habeas corpus petitions. The U.S. Attorney General said the proposals are aimed at stopping the "flood" of petitions which have become "a clear problem for the justice system." He said that in 1981 almost 7,800 habeas corpus petitions were filed by state prisoners and almost all of them were dismissed.[16]

Promulgation of Corrections Standards

A further factor lending impetus to increased litigation by inmates is an observable trend of the promulgation of standards in corrections. Several professional bodies have produced their own versions of minimally acceptable standards for prisons which they recommend for implementation.[17] Included in these are standards concerning prisoners' access to legal resources. While these standards are not formally accepted by states in general, federal and state officials are increasingly taking note of the recommendations and, in some instances, are actively seeking to implement those standards.

The existence of these standards has resulted in an awareness within the corrections system of the need to provide legal resources to inmates. Even though the resources available in prisons may or may not meet the recommended standards, the fact that such standards have been drawn up and that they have been cited in court decisions as defining what makes up "adequate" resources for a facility has provided corrections officials with direction. There now exists something against which they can measure what they are being provided.

Affirmation of Prisoners' Rights

One of the most significant developments in prisoners' legal concerns has been a series of court decisions clarifying inmates' right to access of legal resources critical in the preparation and filing of their legal petitions. As previously noted, the Bounds v. Smith decision has been particularly important with its requirement that prison authorities provide adequate legal materials or legal personnel to assist inmates with their suits.

Increase in Prisoners' Legal Resources

Even though many prison systems now have well-equipped legal libraries, the process of filing petitions remains complex. Few prisoners are able to negotiate the maze of legal jargon and procedures necessary to process a petition to trial. Some inmates have always been able to overcome the hurdles inherent in attempting to deal with the judicial system while within the corrections system and have embarked on careers of "jailhouse lawyering" while incarcerated. For all inmates, however, the presence of law books alone is insufficient to assist inmates with legal issues.[18]

Prison systems vary from state to state in the extent to which they provide legal resources to inmates. Within states, there is also often a difference in the ways individual facilities approach resources. Some institutions provide legal training for inmates who become law library clerks, and some actively recognize the skills of existing jailhouse lawyers and attempt to incorporate them into legal services within the prison (Ohio).[19] Others seek to actually eliminate jailhouse lawyering altogether (Texas).[20]

Prisoners' rights groups are also a critical resource for inmates, and most class action suits have emerged through the assistance of such organizations. In recent years, law school clinical programs have become increasingly involved in educating inmates about their legal rights. In some cases, law students also provide ongoing legal services to individual inmates.

Prisoners' Suits: Summary

The factors contributing to the increase in inmate litigation offer an explanation for the surge in legal activism among prisoners in general. However, none of the factors relates to male prisoners alone. Female prisoners are equally affected by the growth in the prison population and, in fact, have grown at a faster rate proportionately than have male inmates.[21] The changes in judicial response to prisoners' suits represents a shift that applies to entire prison systems and is not limited to male institutions within those systems. The promulgation of legal resources standards and the affirmation of inmates' rights to access to the courts are factors which were, from the outset, also intended to apply to all prisoners.

These factors, then, should theoretically lead to an increase in the number of suits filed by women prisoners as well as by men prisoners. This is clearly not the case, however. Therefore, this project determined to consider and explore what might account for this lack of involvement in litigation by female inmates.

A review of the current literature on women in prison, particularly that which deals with our three areas of focus -- need, resources, and factors contributing to legal activism among women -- gave us a base from which to begin our research. Not only were we looking at what literature existed and what questions it answered, we also found ourselves looking at what did not exist and what questions had gone unanswered in previous research. The exploratory research undertaken by this project attempts to fill in some of the existing gaps and to add to existing information without replicating research that has already been done. Essentially, we found there to be no literature or research specifically concerned with the question of why women are less litigious than men, and this is the primary issue with which our project was concerned.

A discussion of the situation of women in prison provides not only a look at some of the characteristics of women's institutions, but also support for the contention that female inmates do, indeed, have legitimate legal issues.

Female Prisoners: An Overview

It is only within the last ten to fifteen years that there has been some growth in interest in female offenders. Although several small studies have been done and autobiographical writing has always been available on women inmates, very little has been attempted in the way of systematic, large-scale documentation of their concerns and the conditions of their confinement.

For example, a report by the President's Commission on Law Enforcement and the Administration of Justice, published in 1967, made very little mention of female prisoners in any of its ten volumes. Consultants to the study noted only that women were treated differently, i.e., "chivalrously," at the hands of predominantly male law enforcement, judicial and corrections personnel.[22] There is now some controversy over this assertion, but the fact remains that the issues of female offenders are largely neglected. In 1971, a Manpower report referred to female offenders as the "forgotten minority,"[23] and two years later a 113-page report reviewing ten years of programs sponsored by the Department of Labor and Manpower Management for prisoners covered all programs for female inmates in half a page.[24] Finally, a five-volume report issued by the National Institute for Justice projected populations of federal and state prisons and jails through 1983, but failed to single out women in its analysis.[25]

This situation of neglect has improved somewhat in the past three to four years, with increasing documentation of the concerns of female offenders. In 1977 the National Institute of Justice published a survey of women's prisons and women's community correctional facilities using data gathered through a study of 14 states.[26] In 1979 there were hearings on the female offender held by the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the Committee on the Judiciary, U.S. House of Representatives.[27] Another example of the increased interest in issues of female offenders is a 1980 document, published by the U.S. General Accounting Office, which examines the problems confronting women prisoners.[28]

By and large, except for some articles in law journals, the literature on female offenders has ignored the legal concerns of these women and how they deal with them. What has been documented are the conditions common in women's prisons, conditions that indicate and embody the effects of neglect and lack of attention given the female inmate. The absence of opportunities for women in prison is often overshadowed by the absence of the kind of physical abuse so prevalent in men's prisons. The lack of such overt acts may, superficially, resemble a lack of abuse; however, the issue of neglect requires a more sophisticated, a more in-depth analysis since the conditions of incarceration are different for women than they are for men.

The lack of attention given female inmates extends beyond merely not meeting significant needs and includes the failure to acknowledge or assess the existence of the women's needs. The deprivation of resources cannot be fully appreciated without some indication of what resources are necessary. Women in prison may well have a variety of circumstances affecting them that are similar to those facing men, but, as stated above, the general circumstances are different. Male inmates, as reflected in the section of litigation, have responded to conditions of confinement by seeking legal redress. We must, therefore, examine the actual conditions of incarceration which women face and look at them as potential, if unrealized, causes for legal action. They will also help to establish some indication of female inmates' needs.

Prevalent Conditions in Women's Prisons

Isolation

Because of their small numbers, all of the female prisoners in a state are usually housed in a single institution, often geographically isolated from urban communities, and sometimes even in neighboring states. The inmates are, as a result, often removed from legal and other community resources which could potentially help them. While men are assigned to facilities based on their records and offenses, women given prison terms are sent to a prison facility which generally has no differential security classification. In the past, prisons for women were regarded as having minimum security status, with a special building or area designated for those requiring a higher security classification. While this has changed somewhat as facilities have upped their classifications to medium and maximum security, women still lack the range of classifications available to men. While this appears to favor female inmates, in fact it means women lose some of the programs and resources made available to men on the basis of being "classified." The classification of male inmates is a determinant in work release and job training programs provided to them.

Construction of a number of new prisons has meant that some women may no longer be transported across state lines and distance from family and community has decreased for others, but the isolation of facilities for women remains a major problem. It reverberates in the prison system by limiting both work release and job training opportunities -- compounded by the lack of classification systems noted above -- as well as restricting family involvement and reintegration of the inmates back into the community.

Work Opportunities and Vocational Training

One of the most blatant areas of neglect in the penal system is the lack of provision of meaningful programs to assist women in gaining skills to help them achieve some level of economic independence on their return to society. A national study conducted in 1971 revealed that while men's prisons offered an average of ten occupations for inmates, women's prisons offered an average of three.[29] Similar findings have been corroborated by more recent studies.[30] Most of the work opportunities open to female inmates are limited to traditionally female areas, such as hairdressing, clerical work and housekeeping. The issue of economic independence for women prisoners warrants considerably more than casual concern since the majority of incarcerated women are single parents and heads of households.[31]

Apart from the absence of opportunities for gaining skills within the prison, women have also traditionally been denied access to work-release programs, often considered one of the better rehabilitative alternatives available.[32] Prison administrators cite economic and administrative restraints in providing access to these programs, given the small numbers of women who are incarcerated. Some administrators believe that women are not suited to work release and are not as needy as men.[33] Thus, the corrections system does not approach a woman's need to develop and maintain breadwinner skills with the same seriousness given that need in male inmates.

Family Contact

Studies of rehabilitation programs have shown the maintenance of an inmate's ties with the family to be the most important factor in the successful reintegration into society.[34] This is particularly true for female inmates. While studies of incarcerated men reveal that men do suffer from lack of contact with their families,[35] most male prisoners have spouses who remain primary caretakers of dependent children while the men are in prison. Women in prison who have dependent children can rarely rely on a spouse to care for them and generally face serious problems in insuring their children's proper care.[36]

The factor of isolation, discussed previously, not only hinders visits from family members, but also creates problems for social workers who are to take inmates' children to visit incarcerated mothers. Prisons may also have restrictive policies concerning the number and types of visits from children.[37] This results in hardships for mothers while they are in prison and also upon their release. For example, courts are cautious about returning custody of a child to a woman who has been in prison, especially if there has been a lack of consistent visiting.[38] These women are often caught in the nearly impossible situation of having to prove their fitness to parent under circumstances which severely limit their ability to demonstrate consistent caring, especially when, at times, they are not even kept informed of their children's location or well-being.

Custody of children is often a crucial issue for inmates who are mothers. Temporary, or even permanent, custody may be granted to foster parents or relatives by social service agencies or the courts without the incarcerated mother's consent.[39]

Pregnancy and childbirth while incarcerated represent another area of concern for female inmates. Although a number of institutions used to provide care for newborn children and took pride in their nursery facilities, this practice has almost totally disappeared. Two or three prisons still permit women to keep infants with them for short periods, but this generally does not exceed eighteen months.[40]

The problems facing mothers in prison are, by no means, insignificant, and the impact on the children affected is equally as important. Recent estimates of the total number of children affected each year by the policies and practices outlined above have been in the area of 250,000 -- about a quarter of a million children.[41]

Education

Women in prison have been traditionally denied access to the variety and scope of educational and recreational programs which corrections systems have generally made available to men. This continues to be true, despite the fact that women suffer from the same basic lack of education as male inmates and frequently have not finished high school.[42]

Medical Care

Surveys of medical facilities in prisons have demonstrated clearly that there exist areas of critical need for both female and male inmates. However, women in prison have additional needs related to obstetrical and gynecological care. While men's prisons often have full-time medical and dental facilities,[43] the relatively small size of women's prisons usually means there is less likelihood that inmates will have access to a full-time medical staff. The female inmates often need to be transported long distances, due to the isolation of the institutions, to community facilities, causing delays which could be critical. A recent survey of health needs of incarcerated women concluded:

> "The health and medical problems of incarcerated women, like the institutions in which they are housed, have received little attention. The principal factors that predict and shape these women's considerable medical needs include the demographic composition of the incarcerated population, the paucity of medical services for women in correctional institutions, and the illnesses incarceration causes or exacerbates.[44]

Sentencing Disparities

Historically, female inmates have faced inequities stemming from the indeterminate sentencing laws of some states.[45] Even though many states are revoking these statutes, new sentencing trends are emerging which are affecting women in prison. Sentencing policies in general have become harsher, and the trend for both women and men has become commitment for longer sentences. Women, therefore, are now staying in prison for longer periods,[46] so that the situation now more closely resembles that of men, with recommitments increasing as well.[47] Thus, it would seem likely that similar legal needs would also result.

Prevalent Conditions: A Summary

The overall picture for women in prison indicates that there are reasons for them to be dissatisfied with both the conditions of their incarceration and their treatment. They appear to have cause for challenging those conditions and also for appealing their sentences and convictions. In other words, there seems to be ample reason for women to become involved in the legal system in the way their male counterparts have. In order to do so, however, they would require certain resources. The next section addresses the extent to which such resources appear to be available.

Legal Resources: An Overview

The available literature addressing the extent of resources provided female inmates as a way of responding to their legal concerns is, indeed, spotty. A brief overview, however, indicates a likely connection between lack of litigation by women and lack of legal resources provided to women in prison.

Criminologists frequently ignore female inmates when investigating legal programs, resources and concerns of prisoners.[48] One author stated that "...although the body of correctional law and prisoners' rights cases has grown considerably during the past few years, cases brought by women or on behalf of women prisoners, have been disproportionately low. To date it has been the male prisoner who aggressively uses the courts to exercise and protect his rights."[49] Many studies emphasize the importance of legal programs for prisoners, but none indicate even a potential correlation between a consistent lack of such programs and the absence of litigation by female inmates.

One report discussed the importance of legal programs for prisoners in general:

> "The magnitude of the legal needs of indigent prisoners highlights the need for providing free legal services...As a matter of sound correctional and administrative practice, it is important that inmates' legal problems be met. The preoccupation of an inmate with his legal problems can thwart the process of rehabilitation..."[50]

The studies revealed the complexity of estimating need and providing legal services to inmates. They also showed that it is unlikely that any one type of program can encompass all concerns of all inmates and still be acceptable to correctional administrators -- even though 94% of administrators indicated they support provision of legal programs to prisoners.[51]

On-Going Research

In 1970, the principal investigator designed a one-page questionnaire which she sent to superintendents of all the women's correctional facilities in the country. Its aim was originally to determine if female inmates' tendency to process fewer legal remedies while in prison than male inmates was limited to one region or was a national phenomenon.

The questionnaire was sent out again, with only minor changes, in 1972, 1974 and 1980, and became increasingly identified as an instrument for gathering data not only on legal activity of women inmates, but also on legal resources available to those inmates. Questions covered areas such as the type and accessibility of legal personnel, existence and availability of law libraries to inmates, and the extent of legal activity within each institution surveyed.

The ten-year time span covered by the questionnaires enabled the principal investigator to begin analysis of trends in legal resources and legal activism in women's prisons. By 1980, the number of women's facilities had increased from 30 to 45; the response rate for the questionnaire remained at about 86% of the total.

The respondents indicated a number of changes, both in provision of resources as well as inmates' attitudes towards them and interest in them. Since the years between 1970 and 1980 saw passage of some major litigation regarding inmates' right to access to the courts as well as some very important court decisions, it was not surprising to find that all but one institution in 1980 reported having a legal library for inmates. The figures in 1970 showed 46% of the prisons indicating they had law libraries, while in 1974 65% reported having one.

As in earlier questionnaires, the 1980 survey showed institutions most frequently mentioning private attorneys as providing legal services for inmates. A further probe, however, revealed that while they may be the most common legal personnel used, only 5% of the inmates were actually using them. State-appointed attorneys, legal aid attorneys and institutional staff attorneys were indicated as providing over 75% of the services to inmates. The use of law students in prisons was shown, over the years, to have lessened considerably, going from providing assistance in 65% of the prisons surveyed in 1974 to only 31% in 1980.

One of the most dramatic increases in the use of legal resources among female inmates was the consistent increase in the use of jailhouse lawyers. In 1970, 14% of the institutions reported use of jailhouse lawyers within their facilities, in 1972, 25%, in 1974, 54%, and in 1980, 75%. The actual numbers of female writ writers are small, but they are obviously beginning to make an impact.

Additional questions in the 1980 questionnaire brought out a clear indication from prison superintendents of women's facilities that inmates are increasingly concerned about legal matters. While the degree of concern varies from institution to institution, not one prison said none of its inmates had legal concerns.

A detailed summary of the findings of the 1980 survey and comparisons with previous surveys can be found in the appendix.

Factors Related to Availability and Use

Having surveyed the situation of women in prison in general and the circumstances that are likely to result in legal needs and the limited research data on the extent to which legal resources are available to female prisoners with legal needs, it is time to address the project's third major question: what are some key factors which affect availability and actual use of resources. While this question encompasses two different dimensions, i.e., availability and actual use, we have conceptualized them as essentially interrelated and are therefore combining them into one focus of inquiry.

A survey of the literature reveals no studies which have addressed either of these dimensions. In keeping with the exploratory nature of this project, we therefore developed several broad hypotheses and expected that an examination of a wide range of potentially relevant data would warrant some tentative conclusions.

Such broad hypotheses were that 1) the factor of availability would be largely a matter of institutional variables; that 2) actual use would be largely a matter of inmate characteristics; and 3) that there would be a significant interaction between these two factors, such that the degree of availability would not only (obviously) influence actual use, but that a circular pattern would be evident in which the level of actual use would further promote or lessen availability, influencing once again further use.

While the prisons themselves would be under obligation to meet certain minimum and broad requirements regarding the provision of legal resources, the details of such provision, i.e., the practical extent of their accessibility and usefulness, were expected to vary from prison to prison. Factors expected to influence such actual availability, as opposed to availability "on paper," were: size, age, location, and history of the institution; administrative style and orientation of key prison personnel; relationship to other systems impinging on the prison, such as legal aid projects, prisoners' rights groups, etc.; and others. This expectancy was based on a general understanding of how systems in general, and prison systems in particular, operate.

The question as to what inmate characteristics tend to be associated with legal activism or passivity, having not been directly researched previously, required an exploration of a wide range of potentially operative factors. To be sure, a small body of research exists which seeks to explain the incidence and types of criminal behaviors among women and which attempts a "profile" of the psychology of the female inmate. This research literature, however, is less than useful for the present study for two main reasons.

First, the conclusions of early research, which depicted the woman in prison as characterized by passivity and dependence, has more recently been called into question. The "ghastly self-image" said to be characteristic of female inmates, reinforced by what was termed the "boarding-school atmosphere of women's prisons,"[52] was simply assumed to explain the lack of self-assertion, whether in the legal sphere or other spheres, and no further research into the question seemed necessary. Recent studies of female inmates, however, call such assumptions and conclusions into question. While many inmates do, indeed, seem to conform to the old, submissive sex-role stereotype, there are a number of women in prison who do not accept that role, even though it is assigned to them within the institutional setting.[53] While the issue of change among female inmates has attracted the attention of the research community, no clear conclusions are as yet available as to the extent and nature of the changes, their causes, and their implications for the criminal justice field. One anticipated outcome of this research project was to shed some light on these unresolved questions. We attempted to re-evaluate the traditional ascriptions of passivity and submissiveness, which imply stable, internal characteristics, and investigated, instead, whether passive and submissive behaviors, when evident, could in fact be seen as rational responses to environmental conditions, which might well be more assertive in response to different conditions.

The second short-coming in the available literature on female inmates' characteristics is that it generally assumes them to be a homogenous group. The present research endeavored to identify women who were legally active, i.e., who used legal resources, and to gain some understanding of both internal and external factors which accounted for their activism and, by implication, for the lack of activism among other inmates.

Inmate characteristics which were explored for their potential relationship to legal resource use, were: age, motherhood, marital status, educational level, ethnicity, and SES status; criminal history, nature of offense, length of sentence; and attitudes, beliefs, and knowledge about legal issues.

Beyond these factors, and related to some of them, is a larger and highly significant context, however: the reality of the history of courts' responses to suits brought by female inmates. While inmates are generally not specifically cognizant of the existence and outcomes of such suits, a general awareness of the relative lack of success of such suits in the past can be assumed. Thus, all inmates, whether legally active or not, are likely to be influenced in their decisions to pursue legal issues by a general sense of futility. A brief review of the history of such suits follows.

Court Responses to Women's Suits:

The courts have not been very receptive to suits brought by women as a group, showing little support for the grounds upon which they rest legal arguments relating to discrimination.[54] It is important to note here that prisoners in general do not have specific rights to programs; they have only been able to achieve a position whereby one group of prisoners cannot be denied access to programs available to another group within the same facility.[55] Women inmates have tried to gain access to certain resources by basing their arguments on the Equal Protection Clause of the Fourteenth Amendment. Recently, a few cases have received more interest in these arguments, and the charges of discrimination have resulted in stricter judicial scrutiny than had previously been given female prisoners' situations.[56]

In general, however, claims of discrimination based on gender have not resulted in the strict scrutiny given other classifications, such as race and religion. Discrimination based on sex must be "reasonable, not arbitrary" (Reed v. Reed 404 U.S. 71 (1971); Craig v. Boren 429 U.S. (1976). Discrimination based on race or religion, or other classifications deemed "suspect" by the courts, must be based on a compelling state interest, and, therefore, it is subjected to a harsher standard of review by the courts. Such legal restrictions have certainly impeded the ability of women inmates and prisoners' rights attorneys to bring suits based on sex discrimination. Despite the relatively low incidence of suits brought by female prisoners, several such suits have been successfully undertaken, some predicated on legal grounds alleging discrimination.

While women inmates have had some limited success in suits in which they seek "parity" with men -- especially concerning programs -- there continue to be other areas in the legal system where their needs are great and the support almost negligible. The recent case of a North Carolina inmate mother demonstrates this clearly. The plaintiff, an indigent, virtually illiterate inmate, filed her own pro se petition to keep her youngest child with its siblings. In its ruling, the Supreme Court (1981) ruled that indigent mothers in a parental status termination proceeding do not have a Constitutional right to counsel.[57]

The success that women have had in the courts has, indeed, been small, and, in general, women continue to operate within the legal system at a severe disadvantage. Society has given them a low priority, first because they are prisoners and then because they are women. It is, therefore, of particular interest to study the reasons why a subgroup of female inmates nevertheless engages in legal activity to secure their rights.

Summary

This chapter has reviewed the literature relevant to the central questions of this research project and has elaborated on the rationale underlying the particular approaches taken to address those questions. The discussion pointed out the paucity of data available on most of the key issues and emphasized the necessity and desirability of an exploratory, tentative research strategy.

CHAPTER THREE

RESEARCH METHODOLOGY

Overview of Objectives, Approaches, and Data Sources

This project essentially involved an exploratory study to begin to answer the central research question: why are women inmates less litigious than men? In seeking answers to this general question, important subsidiary questions emerged which led to identification of the three major research objectives:

1) to identify inmates' legal needs;

2) to assess legal resources available to female inmates;

3) to identify factors related to provision and actual use of the resources.

We determined that these factors could be explored most meaningfully in the context of and in relation to the prison system within which they operate, and we, therefore, developed a systems approach. This entailed conducting indepth studies in a limited number of prison systems so that all major components affecting and making up the system could be examined. Because we saw prisoners' litigation occurring within and being affected by an entire prison system, our research model encouraged investigation of the attitudes and the behavior of key actors in the system.

This research project examined four different women's prisons in the Northeast. By studying a limited number of prison systems in a comprehensive way, rather than undertaking a larger scale but superficial survey of many more prisons, we were able to study the context within which the female inmates operate on a daily basis. We looked at each prison system within its own boundaries -- that is, not only as a piece of the state's correctional system, but as a separate facility with specific problems, needs and limitations. This meant we were not primarily measuring the women's prison against the potentially different male prisons, but the data we collected lend themselves to such comparisons in subsequent studies. While this approach narrowed our focus, it permitted us to examine clearly that with which we were concerned -- the prison system for women -- and expanded the potentially relevant data which could be collected using the focus such direction afforded us.

We were, therefore, able to explore the targeted variables and interrelationships operating within each prison system, while at the same time we allowed for the possible emergence of new and distinct issues identified not by the researchers, but by those within the system.

The major categories of data and their sources were:

a) opinions, attitudes, actual experiences, and knowledge base of key actors in the prison systems related to legal needs and legal activism of female inmates. The key actors included correctional services commissioners, prison superintendents and counselors, attorneys who provide services to the inmates, and the women inmates themselves.

b) legal resources available within the prison. These included law materials, personnel, facilities and the conditions of accessibility of each of the preceding.

c) state and institutional directives and practices which could be related to legal need, provision of and use of legal resources.

d) additional variables which can impact on provision of legal resources, such as budgetary concerns of both state departments of corrections as well as individual prisons, socio-demographic characteristics of inmates, and the institutions' history of litigation.

Procedures for data collection involved:

a) face to face interviews with commissioners, superintendents, counselors and inmates, addressing mostly female inmates' issues but also males' issues.

b) Questionnaires were mailed to attorneys and legal programs that work with prisoners and to superintendents of men's prisons of comparable size and classification in the states studied.*

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*These were included in order to provide some minimal basis for female/male comparison. However, the response rate from the male prisons' superintendents was so low that no meaningful conclusions could be drawn.

c) The questionnaires sent to attorneys and legal programs were followed up by telephone interviews to clear up any questions and to elicit additional information when needed.

d) The research team made site visits to each of the women's prisons to conduct interviews with inmates and institutional personnel, and to permit assessment of the facilities related to legal resources.

e) Each department of correction involved and each institution being studied were asked to send directives and written policies affecting the use and provision of legal resources.

Case Study/Systems Approach

The project elected to conduct a comprehensive study of a small number of prison systems in one region of the country, rather than a random selection of large numbers of prisons across the United States. Given the nature of our objectives, we believed this approach best allowed an examination of all potentially significant factors and would result in an integrated understanding of the interaction of many variables.

With the general lack of attention given the topic of female inmates' legal concerns, the research was breaking new ground in its focus. Some variables were, of course, assumed to be important, based on the current state of knowledge, and the questions related to them were designed to test particular hypotheses. In general, however, it was not clear which variables would emerge as significant, and only through looking at all possibly relevant facets in a few systems would trends emerge. We saw the emergence of such trends as an important beginning, since they could later be examined in a greater number of institutions in the country.

Our research and, therefore, our methodology were geared to exploratory research, not a definitive nationwide study. The approach adopted could be implemented for large-scale studies of a similar nature, but limitations of time and resources precluded our looking at more than the four prison systems chosen.

Regional Approach

Believing that differences in prison systems in various regions of the country restricted meaningful comparisons, we selected one geographic area for study. By limiting our focus to one relatively homogeneous prison region, we were able to control for the major disparities that might otherwise confound the variables of interest. Thus, it was possible to make comparisons between selected prison sites, allowing for the emergence of factors that explain some of the variance in inmates' legal activism.

The Northeast region was selected primarily because of relative proximity between states and to the research team's home base. This meant a minimum of resources would be expended on travel; it also meant that the prisons studied were near enough to potentially share regional philosophies and problems. On the other hand, the dissimilarities between states in the region provided enough variety to give the research a greater scope.

Selection of Prison Sites

Four prisons located in three states in the Northeast were chosen for the research. As previously mentioned in Chapter Two, women's institutions tend to have several characteristics -- beyond merely the gender of those incarcerated -- which distinguish them from men's institutions. We hypothesized these general traits to have a major effect on the conditions, extent and variety of inmates' legal needs, resources and utilization of resources. We included institutions whose characteristics offered a combination of factors which we could use in comparing the effects of significant variables. The variables considered are discussed below.

Location of the institution was expected to affect a number of conditions within the system, so we included an institution closer to a major urban area than is usually the case in women's prisons, as well as several whose lack of proximity to such an area was more typical. The size of the institution, we anticipated, would have an impact on the way the facility was run, with a larger prison requiring a more structured and formalized administrative style. Our prison sample varied from one housing only 10 women inmates to another with over 400.

The research included facilities with varying histories in terms of penal model upon which the facilities were originally built and the prison's degree of involvement with litigation. The sample included both coed and single-sex prisons, so we could compare the actual accessibility of resources in each, since facilities housing male prisoners usually have greater accessibility for their inmates.

Despite regional similarities, there always exist differences between states in policy and practice, as mentioned earlier. We included facilities in different states in order to examine some of these contrasts, but we also included two prisons within the same state so that we could look at the extent of variance in one correctional system.

Initially, eight state departments of corrections in the Northeast were contacted regarding the research. In addition, the research divisions within the departments were written requesting research clearance. Five of the eight states invited the project to send additional material to initiate the research clearance procedures. Of the remaining three, New Hampshire was in the process of establishing a facility for women, but did not have one at that time. Rhode Island, on the other hand, has a women's facility, but refused to participate in the research project. Maine was interested in participating, but the department was undergoing a major reorganization and wished to postpone its involvement past a point that would have been feasible for the research team. It was, therefore, not included.

Officials in New Jersey were very interested in the project and quite eager to be included in the research. The department in that state has recently had a flurry of litigation regarding resources, but the project decided not to include it due to limited resources and a tight timeline.

The final site selection, then, included four prisons in three states, with another state's female facility as the pre-test site. The pre-test prison is not considered in the findings presented in this report.

We have chosen not to give the actual names of the institutions studied here, but rather to identify them by assigning a letter to each prison and a letter to each state. A general prison profile and chart is provided below; Table 1 summarizes data on each prison. The site selection was as follows:

STATE X contained INSTITUTIONS A and B

STATE Y contained INSTITUTION C

STATE Z contained INSTITUTION D

STATE X: Institution A:

Institution A is a medium-security, coed prison with a capacity of 266 male inmates and 84 female inmates, located in a farming section of State X. Opened in the late 1800's as a women's reformatory, it has, for most of its history, housed only women inmates. In 1972, the women were moved to the other women's prison in the state, about 375 miles away, and the facility was closed for two years. It then re-opened as a minimum security institution for men, and two years later women were re-introduced into the prison. Inmates are transferred from the other women's institution to A if they are from this section of the state and meet the security classification.

The grounds resemble a college campus more than a prison, except for the two rows of razor wire surrounding the facility. Women are housed in one unit of the prison, a single building separated from the main compound by yet another fence, and inmates entering the main compound must be escorted by guards at all times -- whether they are there for meals, jobs or other services and programs. Information on the composition of the female population of Institution A is based on statistical data provided by the prison.

TABLE 1

Characteristics of Prisons Studied

STATE	INSTITUTION	NO. OF INMATES	SECURITY CLASSIFICATION	HISTORY	LOCATION	ETHNIC BREAKDOWN	OFFENSE BREAKDOWN
X	A	84 f 266 m	MED. MED.	Opened 1893 - Reformatory Model	Rural (Poor transportation)	B 44% W 56% H 0%	Person: 57% Property: 37% Behavior: 6%
	B	450 f	MAX.	Opened 1933 - Reform.	Close to major urban area (Good transp)	B 70% W 10% H 20%	Person: 45% Property: 29.6% Uncoded: 27.2%
Y	C	187 f	MIN.	Opened 1918 - State Farm for Women	Rural - Close to Trnpke (Poor transp)	B 53% W 40% H 7%	(Information Not Available)
Z	D	10 f (4 pre-trial) 120 m	MED.	Opened 1975 Community Corr. Center	Suburban (Good transp)	B 0% W 100% H 0%	Person: 20% Property: 60% Behavior: 20%

STATE X: Institution B:

Institution B, also located in State X, is a maximum facility with a capacity of 360 women inmates. Its present population is 450, making it the largest women's prison in the Northeast. It opened as a reformatory in the 1930's and has consistently served as a women's facility throughout its history.

The prison is located about 50 miles from a major urban area and is readily accessible by public transportation. The physical plant includes several obsolete and unused buildings, giving it the most grim appearance of the four prisons researched. It also most closely resembles a men's facility.

While the prison did provide a population breakdown, the figures varied from those sent from the state Department of Correctional Services. The statistics on types of offenses were not given in categories which conformed to those used by Institution A. However, we were able to make some calculations based on the categories provided.

STATE Y: Institution C:

Institution C is a minimum-security women's facility located on several hundred acres of wooded land and is the only prison for adult women in the state. Its stated capacity is 184, with a current population of 187. Opened in the early part of the century as a state farm for women, it later also served as a state prison, with both operating there from the 1930's until 1968. At that time, a centralized Department of Corrections was established and the state farm for women was joined administratively with other correctional facilities in the state.

The facility is somewhat isolated, but is located near a turnpike exit an hour's drive from either of two urban areas and about 25 minutes from a smaller city. Public transportation is very limited with bus service available from only one direction.

STATE Z: Institution D:

A medium security facility, Institution D is the smallest prison visited. The women's unit houses an average of ten female inmates, the men's an average of 120. Built in 1975, it is located on the outskirts of an urban center and is easily accessible by public transportation. The facility utilizes a community corrections model.

All women sentenced to serve time in the state are incarcerated at D, as well as those women unable to post bail and those pending trial. At the time of our research, only 6 of the 10 female inmates had actually been sentenced; the rest were in pre-trial status. Inmates are relatively young, they ranged in age from 19 - 25 years old.

Respondents

As mentioned earlier, the key actors chosen as sources of information ranged from commissioners to inmates. Each category of respondent was chosen for the type of information we believed they could provide, and different instruments were designed for each category in order to best elicit the information. A summary of respondent categories for each institution appears in Table 2.

Commissioners were a logical starting point in the correctional systems as the point at which political, budgetary, and administrative concerns converge. With both internal and external influences impacting on the department of corrections, the commissioner serves as a nexus for information sources that would otherwise be too diverse and scattered to examine. The project first approached the commissioners through the mail, then via telephone contact and, finally, in face-to-face interviews with either the commissioner or a delegate. They were asked to respond to a variety of questions posed in a structured interview conducted by two members of the research team. (The questionnaire used for the commissioners can be found in the Appendix.)

Women's prisons' superintendents were also interviewed. Many of the questions asked were the same as those asked the commissioners, while others were added or omitted as deemed appropriate to the position and duties involved. Just as commissioners were interviewed to determine attitude and influence over the entire corrections system, superintendents were questioned in relation to their attitudes and the influence they exert over the individual prisons. The project wanted to know what factors the superintendents would identify as playing major roles in their decisions about legal needs and provision of legal resources to female inmates, but also what attitudes and assumptions lay behind the identified factors.

As we moved from commissioner to superintendent to institutional

TABLE 2

Major Categories of Respondents

Respondent	State X Institution A	 Institution B	State Y Institution C	State Z Institution D
Commissioner	1 (delegate)		1	1
Superintendent	1	1	1	1
Attorneys	1	4	1	3
Counselors/Social Workers	1	1	1	1
Law Librarian	1 (inmate)	(no librarian)	1 (staff)	(no librarian)
Inmate Law Clerks	1	2	(no law clerks)	(no law clerks
Inmates	27	45	32	5

staff, we wanted to know how perceptions would change regarding women's legal needs given the increasing proximity to the inmates themselves. Given limited time and resources, the project determined that the researchers would interview at least one staff person in each institution. The staff interviews were seen as a critical part of the systemic approach and as providers of key information regarding both the institutions, the corrections systems, and the inmates. We also recognized the importance of having the staff interview be of as consistent a level as possible and decided to focus on prison counselors, due to the amount of contact they generally have with inmates and their bureaucratic tie to the prisons and the departments of corrections. Further, the types of concerns that inmates bring to counselors are often closely linked to legal concerns, and in some institutions counselors perform duties that are quasi-legal functions -- including handling matters related to outstanding warrants and child custody matters. We also considered the usual lines of authority and division of labor within a facility's administration and felt the counselors' functions provide a clear and legitimate channel for female inmates to use at the outset of legal difficulties.

When a prison also had a paid staff librarian involved with the law library, this individual was interviewed as well. Specific questions were asked to probe the librarians' exposure to the legal materials provided, their understanding of the use of those materials and their knowledge or perception of inmates' use of them. In addition, the staff librarians, where they existed, were viewed as potential legal resources themselves and they were assessed according to their apparent effectiveness as such.

One facility offered an alternative mechanism for addressing legal concerns, namely an ombudsman, and that individual was interviewed as well.

The research team also identified attorneys who provided legal services to inmates in the prisons under study. Questionnaires were mailed to them and they were contacted by telephone to determine the range of services available to inmates, the type of needs expressed by them and, where comparisons could be drawn, an assessment of any differences between female inmate clients and male inmate clients. Attorneys were considered part of the prison system, because although most were external legal personnel, their involvement with prisoners' litigation necessarily impacts on the system and draws the attorneys into it. Further, attorney perceptions regarding legal concerns of women inmates have an effect on the nature and extent of legal services made available to the women and attorney attitudes about female inmates are reflected in the roles attorneys play as a resource for those inmates.

The most important category of respondents was the female inmates themselves. Since the central question and all subsidiary objectives involved answering questions about female inmates' behavior, conditions of confinement, and their attitudes, it was clear they would be the greatest source of information.

The inmates interviewed were selected by a dual process: a random sampling and a snowball technique. A random sample, selected from the master list of inmates at each institution, was chosen to insure that inmate data would include the full range of legal needs, legal sophistication, and legal activism. We were also interested, however, in gaining a profile of the "legally active" female inmate: how she uses resources, what needs propel her to legal action, and what attitudes she holds. Our attempt to identify such inmates through a snowball technique yielded only minimal results, i.e., only four inmates thus identified actually met our standard --

to be explained in Chapter VI -- of legal activism.

While an effort was made to interview a comparable percentage of inmates (about 25%) in each facility, the percentages actually varied from prison to prison because of constraints of time and resources and the varied procedures required at each site.

Table 3 provides a profile of the inmates interviewed at each of the four prisons.

Areas of Inquiry

The questions asked of the various categories of respondents were designed to provide documentation for the three major areas of interest of this project: legal needs of inmates, legal resources available to inmates and factors affecting provision and actual use of resources.

Legal Needs

Questions related to inmates' legal needs covered six major categories of legal concerns. The six categories used by the project were developed by selecting and collapsing the most common of 40 areas of legal concern identified in previous research on prisoners' legal needs and activities. Categories were:

1) Child custody and family matters;
2) Appeals to sentences and convictions;
3) Prison programs and conditions;
4) Disciplinary matters;
5) Detainers and outstanding warrants; and
6) Jail credit and good time computation.

Having asked other respondents in the system what legal issues they perceived as being important to inmates, it then followed that we would ask the inmates which issues actually were important to them. The responses

TABLE 3

Selected Characteristics of Inmates Interviewed By Institution

	Prison A	Prison B	Prison C	Prison D	Total Sample
Sample (N)	27	45	32	5	109
% of Total Prison Pop. (Non-Pre-trial)	32%	10%	17%	83%	15%
Ethnic Breakdown:					
Black	9 (33%)	20 (44%)	20 (63%)	--	49 (45%)
White	18 (67%)	11 (24%)	12 (38%)	5 (100%)	46 (42%)
Hispanic	--	14 (31%)	--	--	14 (13%)
Age: Mean	30.3	29.9	28.0	20.8	29.0
s.d.	9.2	9.3	5.5	2.5	8.3
Mothers of Minor Children	63%	56%	72%	40%	62%
Marital Status:					
Single	52%	52%	81%	100%	63%
Married	15%	21%	6%	--	14%
Divorced	22%	14%	6%	--	13%
Separated	7%	7%	6%	--	7%
Widowed	4%	7%	--	--	4%
Educational Level Highest Level Completed)					
less than 10th grade	22%	34%	25%	80%	31%
10th or 11th grade	26%	34%	25%	--	28%
12th grade	26%	21%	41%	20%	28%
some college	19%	2%	9%	--	8%
college graduate	7%	7%	--	--	5%

(continued on next page)

TABLE 3 (continuation)

Selected Characteristics of Inmates Interviewed By Institution

	Prison A	Prison B	Prison C	Prison D	Total Sample
Previous Convictions:					
None	44%	35%	10%	20%	29%
One	16%	14%	13%	--	14%
Two to Five	36%	35%	39%	60%	38%
More than Five	4%	16%	39%	20%	20%
Previous Incarcerations					
None	72%	60%	17%	20%	49%
One	12%	31%	31%	20%	26%
Two to Five	16%	7%	41%	60%	22%
More than Five	--	2%	10%	--	4%
Type of Current Offense					
Property	63%	27%	77%	80%	53%
Violence	33%	41%	10%	20%	29%
Behavior	--	5%	3%	--	3%
Drug Possession or Sale	4%	27%	10%	--	15%
Time Served to Date (Current Sentence)					
less than 6 months	22%	31%	50%	80%	37%
6 months to 1 year	22%	24%	25%	--	23%
1 to 2 years	41%	20%	19%	20%	25%
more than 2 years	15%	24%	6%	--	16%
Time Left to Serve (Earliest Parole Date)					
less than 6 months	41%	27%	64%	100%	43%
6 months to 1 year	30%	16%	18%	--	20%
1 to 2 years	26%	25%	18%	--	23%
more than 2 years	4%	32%	--	--	14%
Maximum Life Sentence	--	36%	--	--	15%
Length of Sentence (Time In Plus Earliest Parole Date)					
less than 1 year	15%	24%	53%	80%	33%
1 to 2 years	41%	9%	13%	20%	18%
2 to 5 years	33%	36%	34%	--	33%
more than 5 years	11%	31%	--	--	16%

Note: Percentages do not always add up to 100 due to rounding off.

to these questions provided us with the most extensive data on legal needs of women inmates and also allowed for comparisons between levels of respondents -- i.e., commissioners, superintendents, counselors, attorneys, inmates.

In addition to the questions noted above, inmates were asked a series of broader questions related to the six categories of legal issues. The responses to these questions afforded enough additional information about the personal situations of inmates and about conditions in the prisons visited to allow us to make an indepth assessment of potential issues affecting inmates within a given facility.

Other questions related to legal needs of female inmates were also asked. Questions asked of the various respondents were of two types: some provided fixed response options, while others were open-ended to allow for a fuller discussion of the issues. All respondents were asked for their perceptions regarding the importance of the six categories and for their opinions about the degree of legal activity of female inmates compared to that of male inmates. The law librarians, law clerks, legally active inmates, attorneys and counselors were all asked about the type of legal assistance most frequently requested by women in prison. The librarians, clerks, attorneys, counselors and all of the inmates were asked what they thought could be done to improve provision of legal services to women inmates.

The inmates were also asked a series of special questions. These covered socio-demographic information, areas of potential concern related to prison life and conditions, their assessment of concerns both for themselves and for other female inmates, and their attempts to seek legal assistance while within the corrections system.

Legal Resources

The research team's assessment of legal resource provision and accessibility within each prison is discussed at length in Chapter V. This assessment primarily involved on-site observation and close inspection of legal materials and the support equipment necessary for inmates to make use of the materials.

Those respondents identified as legal resources themselves, or as persons who could be providing quasi-legal services, were questioned about the type of services they offered.

In addition, the following questions were asked about legal resources:

- knowledge and information about current policies and guidelines regarding provision of resources and accessibility;
- knowledge of and information about actual practices within the prisons regarding access to legal resources;
- information about the types of legal assistance provided to inmates within the different prisons;
- opinions and evaluations of the relative effectiveness of each of several types of legal resources;
- information on funding provided for legal resources, both within the state system and within the individual prisons;
- information on the training and background of persons providing legal assistance (law librarians, inmate clerks or legally active inmates, counselors);
- existence and extent of restrictions placed on the types of legal assistance made available to inmates.

Further questions were asked of attorneys and other legal service providers. These covered office size, volume of prisoner-related cases, types of communication used with inmates and relative success of each, and experience with class action suits.

Availability and Actual Use

Examination of the factors related to provision and use of legal resources mostly involved data collected in connection with the previous two main areas of inquiry, legal needs and legal resources. These threads, we thought, would tie together other seemingly unrelated factors to form a pervasive, although sometimes subtle, pattern of influence where legal resource provision was concerned.

Questions which we expected to have particular relevance for this third research focus addressed the following areas:

- budgetary allocations for legal resource provision both at the state level and the institutional level;
- amount of discretion allowed in budgetary matters, again at both state and institutional levels;
- priority given to provision of legal resources, given other pressing needs, at both state and local levels;
- respondents' experience with past and comments on current status of prisoners' legal activity;
- opinions about level of legal activity of female inmates compared to that of male inmates and about possible reasons for any differences;
- general background and philosophy of prison systems and administrators;
- impressions of female inmates' behavior and their responses to incarceration;
- inmates' backgrounds, criminal histories, current legal issues;
- women's responses to prison life and the degree and type of legal activity found among them.

Procedures

Face-to-face interviews in States X and Y (Institutions A, B and C) were conducted by two members of the research team. Another part-time researcher conducted all interviews in State Z, Institution D. All members of the research team are white women. A fourth researcher was hired for Institution B only. An Hispanic woman, she was able to conduct interviews with Spanish-speaking inmates by translating the questionnaire used.

Since the research team felt it would be important to review interviews for information that was either unclear or missing on the questionnaire forms, all respondents were asked to allow their interviews to be taped. Almost all agreed, and so the only tapes not available are those where there were technical difficulties or where interviews were conducted in Spanish and would require translations for non-Spanish speaking members of the team.

Some of the particulars involved in setting up and conducting interviews varied from state to state and institution to institution. Standard procedures and variations are described below.

Commissioner Interviews: Upon receiving clearance from the departments of corrections in the three states researched, the project contacted the commissioners' offices, first by telephone and then by mail, to set up interviews with the commissioner or a delegate. We asked that one to two hours be set aside to ensure that the researchers were able to cover all of the material and ask additional questions where necessary. One researcher conducted the interviews, with another researcher present to take notes, attend to tapes and provide followup where needed. These were the first interviews conducted in each state so that the researchers could get a "feel" for the states' individual systems by starting with the most powerful position within the department of corrections.

Superintendent Interviews: As above, the researchers wanted to first get a sense of the system operating within the different prisons, and, therefore, they conducted their first on-site interviews with the superintendents of each facility. Arrangements were, again, made in advance, and the procedure was similar to that used with the commissioners. One researcher conducted the actual interview, and another assisted.

Counselor Interviews: The methods used for arranging interviews with the counselors within the prisons varied. Counselors were identified during the site visits and an attempt was made to interview those with seniority or who were in supervisory capacity.

Law Librarian/Law Clerk Interviews: These individuals were easily identified and were contacted by the legal resources investigator on her first visit to the law library. Institution C in State Y was the only facility with a civilian librarian for the women's library which housed both general material and the law library. The other facilities used inmate clerks who were usually available in the library. These interviews took place in the law library, except at Institution B where there were a number of inmate clerks. There one was interviewed in the evening in one of the interview rooms.

Inmate Interviews: The procedures for contacting inmates was largely dependent on the institution's staff and its policies. Where possible, the researchers contacted and presented the project's objectives to the inmates directly. In some facilities, this was not possible. Then a staff member contacted the inmate to be interviewed and either requested that she come to the interview location or gave her a brief statement of purpose which the research team had prepared for distribution to inmates. The researchers recognized that presence of outside personnel for five days represented a deviation from prison routine and that their visit could mean inconvenience for the prison staff involved. To offset this, the researchers established a routine for the site visit that was compatible with the individual prison's routine. Interview space was arranged so that it could be maintained in one location for the five-day period, whenever possible. Interview schedules were prepared and presented to the officer or staff member on duty so that inmates could be reached prior to the interview time desired. Inmate interviews were, for the most part, conducted in unused offices or classrooms. In one prison, however, there was a severe shortage of space in general, and the only area available to the researchers was the attorney interview rooms.

Researchers also attempted to minimize the inconvenience and procedural problems that inmates might encounter. If entry to specific areas within the institution required that inmates would be strip-searched, the researchers sought another location for the interviews. Consideration was also given to inmates with institutional jobs and to those in special programs. Some interviews were conducted in the evening to accommodate the different schedules.

Inmates to be interviewed were first given a brief statement about the project. This included a statement about goals, funding and scope, and was accompanied by a less formal statement from the researchers themselves. Inmates were asked to sign consent forms, both the state department of corrections' and one drawn up by the project. They were advised they could terminate the interview at any point, could refuse to answer any questions, and would not be identified by name in any research reports or other publications. The only time the inmates' names were used was in obtaining information from their files, and inmates were advised the researchers would have access to their files. None of our documents, they were assured, would be made available to prison officials or department of corrections officials. Interview sheets, tapes and record information are identified only by an identification number.

Inmate interviews took from one to two hours each, depending on the individual inmate's particular situation.

Additional Data Sources

As indicated earlier, data on legal resources (library materials, support equipment, etc.) was gathered primarily by on-site inspection of actual materials and conditions. A detailed account of the procedures involved appears in Chapter V of this report.

In addition to the data gathered from interviews and from direct inspection, we requested and examined a range of documents relevant to our objectives. These included the following:

- department of corrections' directives
- statistics from departments of corrections, attorneys and legal services providers, and prisons
- literature from the prisons on programs and services, etc.
- inmate records.

Summary

This chapter has provided an overview of the objectives of this research project and an outline of the approaches taken to meet those objectives. The various respondent categories for our survey were delineated, as were other sources of data. We have also indicated the types of questions asked of each respondent group and what we expected to learn from their answers. We presented the rationale for investigating four prisons in depth and gave brief profiles of each of the prisons. We also outlined the procedures that were followed in actual data collection. Finally, we provided summary data on major characteristics of the inmates interviewed in each of the four prisons.

CHAPTER FOUR

LEGAL NEEDS OF FEMALE INMATES

Introduction

Perhaps the most basic objective of this research project was to learn whether the relative lack of litigation by female prisoners reflects a lack of concerns for which female prisoners might seek legal redress, or whether such concerns exist but legal resources are inadequate to pursue them. That is, we explored whether this prison population experiences conditions which might well constitute grounds for legal action. While the ultimate focus of interest is actual litigation in the courts, we recognized that legal action to secure rights can, and often should, take many forms short of litigation. Thus, we conceptualized legal needs in a broad sense, i.e., we sought to identify a wide range of needs and concerns which might be resolved at many different levels, and by a range of "legal actions," from talking to counselors or attorneys, to using grievance mechanisms, to writing to officials, such as judges, superintendents or commissioners, to joining with other inmates to file suit. It was not our objective to ascertain whether specific concerns of inmates actually constituted grounds for bringing suit; rather, we saw inmates' concerns as indicative of a potential for court actions, which, if not resolved at lower levels of legal action, might eventually reach the courts. Whether these legal needs do, in fact, lead to legal action, is seen in this research project as dependent on a number of factors: awareness on the part of inmates that a specific concern constitutes an infringement of rights; availability of the resources necessary to pursue the concern; and inmates' knowledge and attitudes regarding the legal process. Subsequent chapters will address these factors; the present chapter reports the results of our exploratory study of legal needs.

The project team recognized that the magnitude and types of legal needs are likely to be perceived differently between inmates and major actors in the prison system. We expected that "felt needs" by inmates would not necessarily encompass the full range of actual needs, because certain dissatisfactions would perhaps not be seen as "legal concerns." Thus we explored a range of potential legal needs areas to get some measure of objective assessment of their potential for leading to legal action. We expected that inmates' perceptions of their legal needs might be influenced by and, in turn, influence the system in which they experience prison life. The assessment of legal needs of female inmates by commissioners, superintendents, attorneys, and prison counselors would be valuable indicators of what is anticipated to be of importance and the congruence or dissimilarities between these various perceptions were expected to be instructive.

This research project is ultimately intended to provide a basis for comparison of legal needs of male and female prisoners, as one possible indication of why women have so far been less litigious than men. As pointed out in earlier chapters, it was beyond the scope of this project to collect extensive and systematic data on both male and female prisoners' legal issues. We did, however, gain some preliminary indications of males' versus females' legal needs by questioning commissioners, superintendents, and attorneys about the relative needs of men and women. Yet our main objective here was to delineate the relative importance of each of the legal issue categories to a sample of female inmates in one region of the country, to be further expanded and validated in subsequent research. Our findings are expected also to provide data for future systematic investigations into the comparative legal needs of male and female prisoners.

Approach

We have grouped the many areas in which issues of legality can potentially arise into six main categories:

1) Child custody and family matters
2) Appeals (convictions and sentences)
3) Prison Programs (jobs, training, medical care, etc.)
4) Disciplinary practices (segregation and max, loss of privileges)
5) Detainers and outstanding warrants
6) Jail credit and good time provision and computation.

As outlined in Chapter Two, we approached our study of the legal needs of female inmates with two main expectations. From what we know about the current state of incarceration of female inmates, it was reasonable to expect that the issues which would be of concern to them and which might constitute grounds for legal action would largely be the same as those for male prisoners. That is, categories 2 to 6 listed above would generally have the same potential for arousing legal concerns, though details may differ in important ways, such as in the areas of medical care and job training.

The second expectation was that child custody and family issues, generally of small concern to male prisoners and thus rarely even mentioned in the literature, since the literature mainly focuses on men, would emerge as a very important area of concern for women. As shown in Table 3 (pp. 43-44), 62% of our inmate sample were mothers of children under the age of 18, with the percentage as high as 72% in one of the four institutions. The 67 inmates with minor children had, together, a total of 125 minor children, with an average of 1.9 children per mother. This is a large number of children for whom inmates must make and monitor complicated arrangements to insure their continued welfare. In addition to concerns around children, all female inmates were expected to have other family-related concerns, especially in relation to visiting regulations and the maintenance of mail and telephone contact. Men frequently benefit from more closely maintained family contact than women, requiring less initiative on their part to overcome obstacles posed by the prison system. This pattern seems mostly due to the fact that men's incarceration is not considered to be as deviant, occasioning less rejection by their family network. Women, on the other hand, often find themselves rejected and neglected by their families. The obstacles they face in trying, nevertheless, to maintain contact frequently make a crucial difference in whether such attempts are successful or not.

Our investigation of the legal needs of female inmates focused on two basic aspects of those needs: the magnitude of each of the legal needs categories and the details of how each of those categories of needs manifest themselves in the prison life of female inmates. Data on the perceived magnitude of legal needs was collected, in nearly identical ways, from the inmates themselves and from the other major actors in prison systems, i.e., commissioners, superintendents, prisoners' attorneys, and prison counselors/social workers. Most of the data on the actual details of those needs came from the inmates themselves. Since we could not, however, carry out detailed investigations of all potential legal needs areas, we concentrated this part of the investigation on those needs which we expected to differ, either in magnitude or in specific manifestations, from legal needs of men, i.e., we paid closest attention to children's issues and to prison programs. We expected the other legal needs categories (good time/jail credit, appeals, disciplinary issues, and detainers/warrants) to involve a relatively more predictable and limited set of manifestations, with little difference between male and female prisoners.

In this chapter we will present our findings regarding the magnitude of the legal needs categories, as perceived from the various vantage points mentioned, and will then flesh out more of the details of the legal needs related to child/family issues and prison programs.

Legal Needs of Female Inmates: Ratings of Importance

Measures

In order to enhance both reliability and validity in our measurement of the magnitude of legal needs, we created an index of legal needs importance. This index contained three dimensions of importance: 1) the extent to which a given legal needs category was felt to be important; 2) the proportion of inmates believed to be concerned with a given legal need; and 3) the overall ranking in importance of the six legal needs categories. All respondents were thus asked the following set of questions:

Question 1: How important is this issue to you? (inmates)
How important is this issue to female inmates? (other respondents)

Scoring: five-point scale, from (5) "very important" to (1) "not at all important"

Question 2: How many of the women in this institution would you guess are concerned about this issue?

Scoring: (1) under 25%, (2) from 25%-50%, (3) from 50%-75%, (4) over 75%

Question 3: Which of these six issues would you rank first, second, and third in overall importance?

Scoring: Issue ranked first (3), issue ranked second (2), issue ranked third (1), all others (0).

Responses to these three questions were combined for each issue to produce a summary score which represented the overall magnitude of importance for each legal needs area. These scores then provided a basis for comparison between the various needs, between the classes of respondents, and between prisons and states. Care should be taken in reading this report to distinguish between "ratings" and "rankings." Ratings refer to average number of points awarded to issues; rankings were based on the relative standing of ratings of legal issue categories by a defined respondent group.

Inmate Assessments of Legal Needs

While we expected child and family issues to be of considerable importance to all female inmates, regardless of whether they have minor children or not, we assumed, naturally, that this category of legal need would loom particularly large for inmates with children. We therefore found it useful to examine legal issue importance scores in two ways: first, for all inmates together and then, separately, for inmates with and inmates without children. Our expectation regarding the importance of child and family issues was confirmed: inmates with children gave this issue the highest rating; inmates without children regarded this issue as the second most important one. Interestingly, except for the highest and next highest rated issues, which were reversed for inmates with and inmates without children -- the contender for first place being good time/jail credit -- all other ratings fell into a parallel ranking pattern. Results are shown in Table 4.

The rating and ranking of legal needs differed somewhat from prison to prison, reflecting specific characteristics of the make-up of the prison population in each and varying conditions in each prison. These differences will be discussed in a later section.

We were interested in whether the factor of sentence length had a

Table 4

Mean Ratings and Rankings of Six Legal Need Categories By Female Inmates

	All Inmates N=109			Inmates w. Children N=67			Inmates without Children N=42		
	Rating	(s.d.)	Rank	Rating	(s.d.)	Rank	Rating	(s.d.)	Rank
Good Time/ Jail Credit	9.8	(2.0)	1	9.5	(2.1)	2	10.4	(1.8)	1
Child Custody/ Family Issues	9.4	(2.5)	2	10.1	(1.9)	1	8.2	(2.9)	2
Prison Programs	8.2	(2.2)	3	8.3	(2.3)	3	8.1	(2.1)	3
Appeals/ Sentencing	8.0	(2.6)	4	8.1	(2.7)	4	8.0	(2.4)	4
Disciplinary Issues	7.8	(2.4)	5	7.8	(2.2)	5	7.7	(2.6)	5
Warrants/ Detainers	6.0	(2.5)	6	6.0	(215)	6	5.9	(2.7)	6

systematic effect on how inmates rated the importance of the six legal issues. Analyses by total sentence length, by amount of time spent in prison so far, and by amount of time until the earliest possible parole date did not reveal any patterns of influence. The degree of importance attached to each of the issues reported in Table 4 can thus be considered representative of female inmates in general.

Having had no specific hypothesis regarding the relative importance of the jail credit/good time issue category, it was interesting to find this category rated so highly. As we will show in later analyses of how other prison system actors rated this issue, no one seems to have a clear idea of the importance of this issue to female inmates. Yet it should not be surprising that for female inmates in general the most pressing concern is to get out of prison as quickly as possible. The proper and fair availability and calculation of good time and jail credit, even when it results in a reduction of the prison stay of only a few days or weeks, is a central concern to all inmates.

We did, of course, expect the area of prison programs to be of considerable importance to female inmates. The data show that beyond the primary concerns of getting out of prison as soon as possible and maintaining relationships with family members during the prison stay, the next focus of concern is on the actual conditions of confinement. As we will show in the subsequent more detailed discussion of prison programs, female inmates have much to be dissatisfied about and many legal needs in regard to prison jobs, training, and medical care.

Again, we had no specific hypotheses about the relative importance of the next three issues: appeals, disciplinary matters, and warrants and detainers, except to expect them to be of less importance than the major issues of child and family matters and prison programs. The differences in ratings for appeals and disciplinary issues were not substantial; they were, in fact, rather close to the rating for prison programs. Disciplinary issues are in some ways a part of prison program issues in that the degree of availability of desirable programs is affected by disciplinary measures. For example, inmates are frequently denied their preferred job because of disciplinary infractions. The sixth issue, warrants and detainers, was rated substantially lower than the fifth issue, indicating this to be of least concern, but of concern, nevertheless.

The pattern that emerges from the ratings of the six issues shows essentially three distinct levels of importance. The first two issues, good time and child/family matters, are grouped as the clearly most intense and widespread areas of concern; then comes a middle range of concerns, encompassing prison programs, appeals and disciplinary issues; finally there is a third, distinctly less pressing area of concern, that of detainers and warrants. (For inmates without children, who are in the minority, the grouping is different only to the extent that the importance of child/family issues falls within, but at the top of, the middle category of concerns.)

Even though we find it useful to distinguish between the relative importance of each of these six legal need areas, we emphasize the fact that all areas were accorded high levels of importance. The way in which we operationalized the index of importance allowed for a maximum of 12 points and a minimum of 2 points. As Table 4 shows, the lowest mean score was 5.9; the highest was 10.4. All but one mean score fell clearly above the 50% mark of importance, indicating that no issue was deemed unimportant.

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Other Respondents' Scores on Legal Needs

It was of considerable interest to find out how other prison system actors would rate the importance to female inmates of the six legal needs categories. As discussed earlier, their perceptions are likely to influence the readiness with which legal needs are acknowledged and met.

In this and most subsequent discussions of the legal needs of female inmates we will, for simplicity's sake, use figures for all female inmates, rather than make distinctions for those with and those without children. As shown previously, except for the reversed primacy of the child/family issue category, all other needs are felt to about the same degree and are ranked in parallel fashion for both groups of female inmates.

Table 5 reports the mean ratings of legal needs by commissioners, superintendents, prisoners, attorneys, and prison counselors/social workers. There are only three commissioners, as one of them (who was actually a delegate) has jurisdiction over prisons A and B, since they are in the same state. There are more than four attorneys, because we interviewed from one to four for each prison. (In calculating attorneys' overall means, we used an average score for each prison.)

An examination of the data reveals that these system actors, when taken together, gave fairly accurate estimates at the top and bottom of the ranking order. That is, the child custody/family matters category was assigned high importance by all but the commissioners, which is at least an accurate reflection of how inmates with minor children assessed this concern. All actors, except counselors, gave low ratings and rankings to the warrants/detainers issue, again an accurate reflection of reality. Good time/jail credit issues were correctly ranked by commissioners; however, all other respondents consistently underestimated their importance, especially in the ratings they assigned.

Table 5

Assessments of Legal Needs of Female Inmates by Respondent Groups

	Female Inmates		All Non-Inmate Respondent Groups	Commiss-ioners N=3	Superin-tendents N=4	Attorneys N=9	Counselors N=4
	with children N=67	without children N=42					
	Rank (Rating)		Rank (Rating)	Rank (Rating)	Rank (Rating)	Rank (Rating)	Rank (Rating)
Good Time/ Jail Credit	2 (9.5) all: 1 (9.8)	1 (10.4)	2 (7.8)	1 (9.3)	3 (7.1)	3 (7.1)	3 (8.3)
Child/Family Issues	1 (10.1) all: 2 (9.4)	2 (8.2)	1 (8.9)	5 (6.7)	1 (10.0)	1 (9.9)	1/2 (8.8)
Prison Programs	3 (8.2)		4 (6.6)	3/4 (7.0)	4 (5.8)	4 (6.8)	4/5 (7.5)
Appeals	4 (8.0)		5 (6.5)	3/4 (7.0)	6 (4.8)	2 (7.3)	6 (5.8)
Disciplinary Issues	5 (7.8)		3 (6.9)	2 (7.7)	2 (7.3)	5 (5.7)	4/5 (7.5)
Warrants/ Detainers	6 (6.0)		6 (5.0)	6 (4.7)	5 (5.5)	6 (4.8)	1/2 (8.8)

Note: Slashed ranks indicate tied ranks.

While commissioners again came close, other respondents consistently underestimated the importance of prison programs as a source of legal needs. Superintendents in particular, who have the most influence over their actual structure and conduct, gave a dramatically lower rating of importance (5.8 vs. 8.2 for inmates) to prison programs.

Just as the research team had no specific hypothesis concerning the issue of appeals because of changing sentencing patterns for women and a lack of research on their effects, system actors also seemed at a loss regarding the importance of this issue. (Inmates themselves appear to be of varying opinions, as this issue had the largest standard deviation; see Table 4.) Thus this issue received ratings that ranked it from second most important (attorneys) to least important (counselors). Attorneys' high ratings may well be accounted for by the fact that this is the type of issue for which inmates would directly seek them out, whereas many of the other issues would cause inmates to try other avenues of resolution first and might never come to the attention of an attorney.

Finally, the category of disciplinary issues presented some interesting results. While this ranked low in the eyes of inmates, prison counselors, and attorneys, commissioners and superintendents perceived this to be a very important issue. Actually, the ratings of importance by these latter two respondent categories were very close to the ratings of inmates themselves; the great disparity in rankings is more due to the perception on the part of commissioners and superintendents that, except for one other issue, nothing was as important to inmates as this issue of disciplinary actions. This is likely a projection of their own preoccupation with discipline. In fact, regardless of how close the system actors' rankings were to those of the inmates themselves, in all but a very few cases they considerably underestimated the magnitude of concern, felt by inmates themselves.

Female/Male Comparisons on Legal Needs

The major prison system actors (commissioners, superintendents, and prisoners' attorneys) who could be expected to have an informed opinion were asked to respond to the same set of legal issue questions in relation to male inmates that they had answered for female inmates. Mean index ratings and rankings for male and female inmates are presented in Table 6.

Table 6

Assessments of Legal Needs of Female and Male Inmates by Commissioners, Superintendents and Attorneys

(Rank/Rating)

	Commissioners (N=3)		Superintendents (N=4)		Attorneys (N=8)		All Officials Combined		Self-Assessment by Female Inmates
	Female	Male	Female	Male	Female	Male	Female	Male	
	Inmates		Inmates		Inmates		Inmates		
Good Time Jail Credit	1 9.3	2/3 8.3	3 7.1	1 9.5	3 7.1	2 8.1	2 7.8	2 8.6	1 9.83
Child/Family Issues	5 6.7	6 5.7	1 10.0	6 3.8	1 9.9	4 7.4	1 8.9	6 5.6	2 9.40
Prison Programs	3/4 7.0	4 7.3	4 5.8	5 6.3	4 6.8	3 7.9	4 6.6	4 7.2	3 8.2
Appeals	3/4 7.0	1 9.7	6 4.8	2 8.8	2 7.3	1 8.8	5 6.5	1 9.1	4 8.0
Disciplinary Issues	2 7.7	2/3 8.3	2 7.3	4 6.5	5 5.7	5 7.3	3 6.9	3 7.4	5 7.8
Warrants/ Detainers	6 4.7	5 6.7	5 5.5	3 7.5	6 4.8	6 5.5	6 5.0	5 6.6	6 6.0

As the figures in Table 6 show, both the magnitude of the ratings and the relative rankings differed considerably with respect to male and female inmates. Respondents also differed considerably among themselves in their assessments; thus it is difficult to discern a pattern in these male/female comparisons.

There were only two issues on which at least two respondent categories agreed in ranking: appeals and child/family matters. Appeals were ranked as the most important issue for male prisoners by commissioners and superintendents and as the second most important issue by attorneys. Three of the four highest ratings (9.7, 8.8, 8.8) were assigned to appeals for men. For women, this issue was ranked between medium-low (3/4) and low (6) by commissioners and superintendents; female inmates themselves ranked it fourth. It is possible, therefore, that a real difference in importance exists here. Since appeals to convictions and sentences represent a legal issue that can only be directly pursued in court, rather than at the institutional level, some of the difference in the amount of prisoner litigation between male and female inmates may be explained through the relative importance of the issue of appeals. This may further be explained as possibly related to the fact that men, on average, serve longer prison sentences because of the relative greater severity of the crimes of which they have been convicted, presenting more incentive to men for filing appeals. Moreover, male inmates in general have greater access to legal resources within prisons and more extensive contacts with people on the outside to help facilitate appeals procedures. Finally, there are indications that women's convictions more frequently involve plea bargaining than do men's convictions, reducing the chances for successful appeals. It must be noted, however, that while female inmates regard the issue of appeals as less pressing than other issues, they do attach considerable importance to it and, if provided the means with which to pursue this issue, might well focus more energy on it.

Another difference between legal needs of men and women in prison: commissioners' and superintendents' very low rating and ranking of child/family issues for male prisoners may well reflect the true state of affairs, i.e., that women are dramatically more concerned than men about child and family issues. The important question is, why does this demonstrated high legal need of female inmates not lead to legal action? Chapters V and VI will discuss this question in detail.

There is a third finding of interest in the male/female inmate comparisons. As discussed previously, female inmates in general consider the issue of jail credit/good time to be of greatest importance. Regardless of sentence length, their highest priority is to get out of prison as soon as possible and to be accorded all their rights in this respect. One should hardly expect this issue to differ between male and female prisoners. Yet only commissioners estimated its importance for women correctly and rated and ranked it, in fact, more highly for women than for men. Superintendents believed this issue to be of considerably less importance to women than to men (7.1 vs. 9.5) and attorneys considered it somewhat less important to women (7.1 vs. 8.1). This attitude on the part of superintendents may well have deleterious effects on the structure and practices of awarding good time and jail credit to female inmates.

One can conclude from these findings that very little is, in fact, known about the relative importance of the six legal needs to female and male prisoners. This question is clearly in need of further investigation so that legal needs can be met appropriately for each prison population and, ultimately, so that the basic issue of the difference in litigation activity by male and female prisoners can be adequately addressed and documented.

Female Inmates' Legal Needs by Prison

The four female prisons studied were similar in many ways, yet they also differed, as can be seen from the different ratings that inmates gave to certain issues in each prison. We now turn to a discussion of how accurately prison system actors perceived the needs of female inmates in their assigned prisons and thus closest to their experience. We will also relate inmates' and other respondent groups' ratings to what we came to know about each prison in the course of our research. (Table 7 shows ratings by prison.)

Prison A:.

When inmates' assessments in Prison A are compared to inmates' assessments in all four prisons together, generally similar ratings and rankings are found. Child and family issues were ranked first, rather than second; appeals were ranked lower but rated similarly; and prison programs, while given the same ranking, were half a point above the mean of the general inmate sample. Generally speaking, the inmates in this prison expressed the same level of concern about the six legal needs category as their counterparts in other prisons.

The commissioner, who had provided combined judgments for both institutions in his state (Prison A and Prison B), was reasonably accurate in his assessment when applied to Prison A inmates, but more accurate in his

Table 7

Assessments of Legal Needs of Female Inmates By Respondent Group in Each Prison

(Rank/Rating)

	PRISON A					PRISON B					PRISON C					PRISON D				
	Inmates (27)	Commissioner	Superintendent	Attorney	Counselor	Inmates (44)	Commissioner	Superintendent	Attorneys (4)	Counselor	Inmates (32)	Commissioner	Superintendent	Attorney	Counselor	Inmates (5)	Commissioner	Superintendent	Attorneys (3)	Counselor
Jail Credit Good Time	2 9.1	1 11.0	3/4 9.0	5 6.0	6 3.0	1 10.1	1 11.1	4 7.0	5 7.5	3/4 7.0	1 10.0	1 9.0	1/2 10.0	2 8.0	1 11.0	1 10.2	3/4 8.0	5/6 2.0	2 7.0	1 12.0
Child and Family Iss.	1 10.6	2 9.0	1 11.0	1 12.0	4 6.0	3 9.3	2 9.0	1 10.0	1 9.0	1 11.0	2 9.3	2 7.0	1/2 10.0	1 11.0	2 10.0	6 7.0	6 4.0	1 9.0	1 7.7	3 8.0
Prison Programs	3 8.7	3 8.0	3/4 9.0	3 9.0	2/3 9.0	4 7.7	3 8.0	6 3.0	3 8.3	5/6 5.0	3 8.2	4 5.0	5 5.0	3-6 4.0	3-5 9.0	2 9.4	3/4 8.0	2 6.0	4/5 6.0	4 7.0
Appeals/ Sentences	5 7.4	5/6 5.0	6 4.0	2 10.0	5 5.0	2 9.4	5/6 5.0	3 8.0	2 8.8	2 9.0	5 6.8	5/6 4.0	6 2.0	3-6 4.0	6 4.0	3-5 7.4	1 12.0	3 5.0	3 6.3	5/6 5.0
Disciplinary Issues	4 7.7	4 7.0	2 10.0	6 5.0	1 11.0	5 7.6	4 7.0	2 9.0	4 7.8	5/6 5.0	4 8.0	3 6.0	4 6.0	3-6 4.0	3-5 9.0	3-5 7.4	2 11.0	4 4.0	4/5 6.0	5/6 5.0
Warrants and Detainers	6 5.4	5/6 5.0	5 6.0	4 7.0	2/3 9.0	6 6.1	5/6 5.0	5 6.0	6 5.3	3/4 7.0	6 6.1	5/6 4.0	3 8.0	3-6 4.0	3-5 9.0	3-5 7.4	5 5.0	5/6 2.0	6 3.0	2 10.0

Note: Slashed rank numbers indicate tied ranks.

predictions of Prison B inmate concerns. He judged the issue of appeals to be of considerably less importance than it actually was for Prison A and Prison B inmates, however. Jail Credit/Good Time was overestimated for Prison A inmates. Also, child and family issues, while judged relatively accurately for Prison B, were underestimated for Prison A, but were close in rank.

The superintendent's ratings were such that none of the rankings agreed with inmates' perceptions, except for child/family issues. Disciplinary issues were accorded much more importance than they actually had, (inmates: 7.7; superintendent: 10.0) which threw off the relative importance of good time/jail credit. The rating of this issue was close, but it came out in third to fourth rank, as opposed to second rank for inmates. Appeals, on the other hand, came out close in rank, but were greatly underestimated in actual rating of importance (inmates: 7.4; superintendent: 4.0). The superintendent, in other words, saw some issues as dramatically more important than others (ratings ranged from 11.0 to 4.0), while inmates considered them all important, though to varying extents (ratings ranged from 10.6 to 5.4).

Attorneys' judgments were fairly close regarding child/family issues and prison programs. They overestimated the importance of appeals by 2.6 points and of warrants by 1.6 points. They underestimated the importance of good time/jail credit by 3.1 points, a fairly large gap; and of disciplinary issues, by 2.7 points.

The counselor's judgments were generally incorrect. Child/family issues, which one would expect to come to the counselor's attention, were underestimated by 3.4 points; appeals, which might well by-pass the counselor, were 2.4 points too low; and good time/jail credit issues were as much as 6.1 points too low. Overestimations, on the other hand, were in the areas of disciplinary issues (by 3.3 points), and for warrants (3.6 points), both of which probably come to the counselor's attention disproportionately.

Prison B:

Inmates in Prison B agreed in their concerns with the general inmate sample on both the highest (good time/jail credit) and the two lowest (discipline and warrants) issues, both in terms of rank and absolute magnitude of importance. In this institution, however, the issue of appeals took on major importance, being ranked second, as opposed to fourth for all inmates. The ratings of this issue did not differ that much, however, as it was only 1.4 points higher in Prison B than for female inmates overall. The higher ranking of appeals could well be due to greater availability of legal resources in Prison B (see Chapter Five) with which to pursue this concern.

Child and family issues ranked only third here, having been edged out by the greater importance of appeals; the rating was, however, comparable. The same was true for prison programs: these were ranked slightly lower, but given a similar importance rating. These findings can be related to the fact that inmates in Prison B could keep their children under age 2 in prison with them and that prison programs here were the most extensive of any of the four prisons studied.

The commissioner of institutions in this state gave rather accurate assessments of the issues concerning women in Prison B. Thus, in the areas of prison programs, child and family matters, discipline, and warrants, both ratings and ranks echoed Prison B inmate assessments fairly closely. Only the issue of appeals was considerably underestimated: ranked second by inmates, the commissioner ranked it fifth or sixth; the magnitude of the rating difference was also great, i.e., 4.3 points.

As noted in the discussion of Prison A, which also fell under this commissioner's jurisdiction, he rated the issue of jail credit/good time very highly (11.0 points). This may be a reflection of the fact that meri-

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torious good time was the subject of inmate activism in Prison B. There was an organized movement to institute meritorious good time in the state and inmates had taken steps -- such as preparing position papers and speaking to legislators -- to encourage such a policy.

Awarding miscomputed jail credit and good time had been the subject of legal action by a legal project that represented prisoners in Institution B and other nearby prisons. Getting back jail credit and good time that had been miscalculated constituted one of the major accomplishments of the program.

The superintendent of this institution did not accurately assess any of the legal needs. All the rankings were incorrect and most of the differences in absolute points were considerable. Thus, the most important issue for inmates, jail credit/good time, was ranked only fourth by the superintendent; child/family issues were believed to be of first importance, while they actually ranked third; appeals was somewhat underrated; disciplinary issues were considerably overrated (ranked second instead of fifth); and prison programs, while showing only a slight difference in rank, were dramatically underestimated in absolute terms. That is, this superintendent assigned only 3 points to the importance of this issue, one of the lowest ratings given by any respondent to any issue. Inmates themselves gave prison programs a rating of 7.7. Only the issue of warrants/detainers was judged somewhat closely. The considerable overrating of disciplinary issues can be related to the effects of recent litigation involving disciplinary procedures in Prison B.

The four attorneys' judgments were right on target with respect to appeals, the second most important issue for inmates in Prison B. This accuracy is not surprising, since inmates would bring this need directly to the attention of attorneys. This group of respondents, while greatly underestimating the importance of jail credit/good time (ranked fifth instead of first; 2.6 points difference), judged the other legal needs areas relatively accurately.

The prison counselor's judgment was generally not very accurate. While correctly identifying appeals as a very important issue for inmates, good time/jail credit was rated considerably too low, as were prison programs and disciplinary matters, but child/family issues and warrants were overestimated.

Prison C:

The inmates' concerns in this institution were highly comparable in both ratings and rankings to the general sample of female inmates: this appeared to be the "typical" institution in many ways. The only difference was in the way that disciplinary issues and appeals were rated and ranked; disciplinary issues were of greater importance to these inmates than were appeals, the latter appearing in fifth rather than fourth rank. This may be related to the fact that more women had been in segregation or max in this institution than in any of the others and that sentences were generally short, providing less incentive for filing appeals.

When compared to inmates' rankings, the commissioner of the state in which Prison C is located gave the correct ranking for the top two and the lowest issue; his ratings, however, differed considerably in magnitude from ratings provided by inmates. All issues but jail credit/good time were considered substantially less important than they actually turned out to be: child/family issues by 2.3 points; program issues by as much as 3.2 points; appeals by 2.8 points; and disciplinary matters and warrants by 2.0 points.

The superintendent at Prison C ranked four out of the six issues appropriately, i.e., in line with how inmates themselves ranked them. Two of the issues, however, were considerably misjudged: programs were ranked much lower and warrants much higher. As far as ratings were concerned, good time/jail credit and child and family issues were fairly accurate. Prison programs, however, were underrated by 3 points, disciplinary issues by 2 points, and appeals by as many as 4.8 points.

The attorney who answered questions for this institution ranked four out of the six issues as equally low in importance: prison programs, appeals, disciplinary issues and warrants were all given 4 points. Good time/jail credit issues as well as child and family matters were assessed fairly correctly both in terms of rank and rating.

The prison counselor generally assessed the issues correctly, both in terms of rankings and ratings. Only the issue of appeals was considerably underrated in importance and warrants were overrated.

Prison D:

Prison D represents an unusual case in that only five female inmates were interviewed here, these inmates being five of the six women who had actually been sentenced and were incarcerated within the state. (This does not include inmates in federal institutions or those inmates who were sent to an institution in another state.) The inmates were unusual for other reasons: three of the five had no minor children and their sentences were all relatively short, i.e. 80% had been in prison for less than six months and all five had parole eligibility dates within six months. Nevertheless, for these inmates, too, the jail credit/good time issue was the most important. Child and family issues were rated lowest, not surprisingly, as most of them had no children and all could be expected to be reunited with families in a relatively short time. The issue of prison programs was of second highest importance to these women. This was likely a reflection of two facts: 1) there were hardly any prison programs in existence for them, and 2) the male inmates in this institution enjoyed more extensive programs, of which the female inmates were fully aware.

Only one of the judgments of the commissioner in this state was correct: he rated and ranked the child/family issue lowest. It is not clear that this represented an informed judgment of the peculiar circumstances of the female inmates in Institution D or whether this was more of a misjudgment of the importance of this issue to female prisoners in general. The fact that the commissioner overrated the importance of appeals to such an extent may be a reflection of his greater orientation to male prisoners, for whom this is, indeed, an issue of major importance. Perhaps a similar reason underlies his judgment that disciplinary issues are considerably more important than they turned out to be.

The superintendent's judgments generally did not reflect the actual importance which Prison D female inmates assigned to issues. Thus, while he was correct in assigning very high importance to child and family issues, if female inmates in general are under consideration, this judgment was incorrect relative to Prison D inmates. His extremely low rating of the jail credit/good time issue is not readily explainable. In fact, all but the child/family category were considerably underrated in importance: good time/jail credit by 8.2 points (!), programs by 3.4 points, appeals by 2.4 points, disciplinary issues by 3.4 points, and warrants by 5.4 points. It appears that this superintendent thought that female inmates essentially had very little concern about any issues but those which were related to their families.

Attorneys in Institution D underrated the importance of all issues except for child/family matters, which they judged to be of considerable importance. However, only one ranking was more than one rank removed from inmates' results: this was the child/family category, which attorneys thought to be the most important issue, while for inmates it actually was the least important.

The counselor in Prison D considerably overestimated the importance of warrants and detainers. This judgment was, as previously noted, to be expected since this issue is a likely one to come to counselors' attention when it does exist. The counselor also overestimated the importance of child and family issues and underestimated, by 2.4 points, the issues of prison programs, appeals, and disciplinary matters.

Summary of Prison by Prison Comparisons

The previous sections discussed as many as 30 ratings for each prison: six legal needs categories by five respondent categories, i.e., inmates, commissioners, superintendents, attorneys, and counselors. Altogether, for the four prisons, no fewer than 120 rating comparisons were involved. In order to assist in the interpretation of these results, we present a summary of rating comparisons in Table 8.

The figures in Table 8 show the number of times a particular respondent group's assessment of the importance of a legal need was not in agreement with inmates' own assessment of that need. The inmate reference group is always that of a particular prison about which the question had been asked. We considered assessments to be in agreement when ratings were within 2 points of each other. This liberal standard takes into account the fact that respondents are highly unlikely to be in exact agreement with inmates and that inmates, of course, disagreed among themselves in their ratings. Since the average standard deviation of inmates' assessments of the six legal needs within each prison was about two points, it was reasonable to consider all judgments that were largely within one standard deviation to be in essential agreement. Table 8 thus shows the number of times a legal need was substantially underrated or overrated.

Table 8

Summary of Disagreements With Inmates' Ratings of Legal Needs By Respondent Category

(Disagreement=Disparity of 2 pts. or more)

	Commissioners		Superintendents		Attorneys		Counselors		Total per Issue		Total Disagreements
Good Time Jail Credit		-1		-2		-4		-2		-9	9
Child/Family Issues		-2	+1					-1	+1	-3	4
Prison Programs		-1		-3		-2		-2		-8	8
Appeals	+1	-3		-3	+1	-1		-3	+2	-10	12
Disciplinary Issues	+1	-1	+1	-2		-2	+1	-2	+3	-7	10
Warrants/ Detainers		-2		-1		-2	+3		+3	-5	8
Total per Respondents	+2	-10	+2	-11	+1	-11	+4	-10	+9	-42	51
Total	12		13		12		14		= 51		

Despite the generous standard of agreement that we adopted, Table 8 indicates that of the 96 judgments made (6 legal needs X 4 respondent groups X 4 prisons), more than half (53%) were in substantial disagreement. Each respondent group provided 24 judgments (6 legal needs X 4 prisons). At least half of these were incorrect, with no single respondent group making notably more accurate judgments than any other. The individual issues had each been assessed 16 times (4 respondent groups X 4 prisons); five out of the six issues were misjudged in their importance in half or more of the assessments. Finally, the vast majority of misjudgments (84%) involved a substantial underrating of the importance of legal need areas. All prison actors in all four prison systems tended to greatly underestimate the legal needs of women.

The legal issue which showed the fewest misjudgments was the child and family area. Only 25% of the system actors' judgments were off the mark, with three having been too low and one too high. It thus appears that prison systems in general are fairly well aware of the fact that female inmates feel a great deal of concern about their rights involving relationships with members of their family.

The issue which was most frequently misjudged in importance was appeals. Even though the issue of appeals was only fourth in importance for female inmates in general, the importance level which they attached to appeals was considerably higher than other actors in the prison system expected. While one of the four commissioners and one attorney overrated the importance of appeals to women, the other three commissioners, three of the four superintendents, two of the four attorney groups, and three of the four counselors underrated this issue. In fact, this was the most frequently underrated issue of all. It is somewhat puzzling that the importance of appeals to women should have been so frequently underrated. We know from earlier comparisons that prison actors generally believe this issue to be of greater importance to male than to female prisoners. Why should this be? It seems more reasonable to expect female inmates to be as concerned as males with having their convictions overturned or their sentences reduced -- they are surely as eager as men to avoid unnecessary incarceration. To be sure, female inmates have even more pressing concerns, as discussed previously, but they definitely experience this issue as a legal need. The fact that prison systems underrate its importance is likely to have an unfavorable effect on how they provide resources for pursuing appeal-related legal action.

The second most frequently misjudged legal need was in the area of disciplinary matters. Again, female inmates felt this to be of considerably more importance than did many other system actors, with 7 judgments involving underestimations. On the other hand, the superintendent and counselor in Prison A believed this issue to have more importance than it actually had for those inmates; the commissioner for Prison D also overestimated its importance. While for inmates in general the issue of disciplinary sanctions was of low importance when compared to other issues, they were, nevertheless, more concerned with this than they were expected to be in 3 out of 4 prisons. This calls into question the widely held stereotype of women as readily submitting to whatever conditions are imposed on them. Female inmates may not have taken action to express their concern about apparent injustices in disciplinary actions because of other, more pressing issues. The concern, nevertheless, is there.

The next most misperceived issue was good time/jail credit. All nine of the misjudgments involved underratings of the importance of this issue to female inmates, making it the second most frequently underrated issue, after appeals. As discussed in previous analyses and, in this section, in connection with the issue of appeals, women are apparently not perceived to be as eager as men to get out of prison. They are not expected to be particularly concerned with fair provisions for earning good time and jail credit and for their proper computation. The facts show otherwise. Women rated the issue of jail credit/good time as the most pressing legal need area. Only upon full recognition of this need are prison systems likely to be responsive to it and will they implement procedures which are clear and just and accurate.

Women's concern with the quality of prison programs and fair procedures in eligibility and availability was underrated half the time, with no respondent group ever overrating it. As will be explained later in this chapter, there are many aspects of prison programs which appear to be unresponsive to the needs of female inmates. The entire sample of inmates ranked this area third in importance, suggesting that once they are assured of fair and proper computation of their prison stay and have achieved reasonable means for taking care of their ongoing family responsibilities, they will focus their energies on the improvement of conditions within the prison. Prison systems would benefit from a greater awareness of the particular needs of their female inmates, enhancing the chances that upon release these women will be able to lead law-abiding and productive lives.

Finally, the area of warrants and detainers, which, to be sure, was of least importance to female inmates, was nevertheless underrated in five out of sixteen cases. The three overratings came from prison counselors who, because this issue comes within their assigned responsibilities, are more likely than other prison actors to encounter this need and thus to overrate it. Even though the concern with warrants and detainers is, for inmates, the least important, the overall results suggest that here, too, exists a legal need which should be properly attended to. Prisons should insure that inmates are correctly and fully informed about what warrants and detainers are and what actions they can take in relation to them.

In conclusion, it should be pointed out that the above analysis considered all four prisons together. When judgments in individual prisons were compared, a somewhat differentiated picture emerged, with actors in some prisons considerably more astute in their assessments of legal needs than others. Within each prison, 24 comparisons were made (six issues by four respondents). In Prison D, which contained only six female inmates who were serving sentences, 18 judgments were in substantial disagreement with the inmates' assessments. That is, even though it should have been relatively easy to assess the needs of such a small group, fully 75% of prison officials' judgments were substantially incorrect. The prison with the highest concordance in judgments was Prison B: only 6 out of 24 judgments were incorrect by our standard, giving prison officials here a 75% agreement score. This prison interestingly had the largest number of female inmates. Prison A officials made 11 out of 24 judgments correctly (42%); Prison C actors achieved agreement in 62% of their judgments. From this analysis we conclude that it is, in fact, possible for prison systems to be cognizant of female inmates' legal needs. It is likely that when such cognizance exists, that legal needs are also met more appropriately. Chapters 5 and 6 will discuss the results of our investigation as to whether this is, in fact, the case.

We also conclude, however, that the legal needs (and probably other needs) of women in prison will generally tend to be misunderstood and underrated. It was instructive to find that the officials of the prison with the largest number of female inmates (Prison B, which had 450 female inmates, of whom 45 were interviewed) had the most accurate assessments of women's legal needs and the prison with the smallest number the least accurate assessments. Following this pattern, the second most accurate judgments were made by prison officials of Prison C, which had 187 female inmates, and the third was Prison A, which had 84 female inmates at the time. This pattern indicates that it requires a relatively large concentration of female prisoners in one institution for the prison system to be somewhat cognizant of their needs, the first step in actually responding to such needs.

Because female prisoners represent such a small minority of all prisoners, however, the needs and interests of male prisoners will always tend to draw more attention from those responsible for their incarceration. Further evidence for this conclusion comes from the fact that the top two women's institutions, in terms of accuracy of needs assessments, are all-female institutions, where women do not need to compete against male prisoners for officials' attention. The two prisons for which the least accurate assessments were made are both co-educational institutions, where men far outnumber the women (see Table 1) and where prison officials' attention was apparently focused considerably more on their male charges.

While women are and will probably remain a small minority in the general prison population, they have needs which are just as important as those of men. In fact, their incarceration involves a large number of other individuals, namely their children, who are at least indirectly affected by their mothers' prison conditions. Only through conscious efforts on the part of the criminal justice system to examine and respond to the needs of female inmates -- which are often the same as those of men, though they are assumed to be different and which, in other areas, are distinctly different from those of men, though they are assumed to be the same -- can criminal justice be insured for the female inmate.

Legal Needs of Female Inmates: Inmates' Actual Experiences

Previous sections have reported on the degree of importance which inmates and other prison system actors attach to each of the six legal needs categories. We compared and discussed the rank order of importance assigned to each legal need by the various respondent groups. While this quantitative approach has yielded important information, we have also collected data which adds qualitative dimensions to these findings, enhancing our understanding of the legal needs of female inmates in significant ways.

We learned through our quantitative approach that the top three issues for female inmates in general were good time/jail credit, child and family issues, and prison programs. What was it about these issues which aroused such high concern? As discussed earlier, we limited our in-depth qualitative investigation to two legal need categories: the area of prison programs and issues related to child custody. We did this for several reasons: a) time and resources required us to limit our focus; b) we had no specific hypotheses about the relative importance of the other four legal needs categories, though we expected all of them to emerge as distinctly important; c) we assumed that the kinds of problems which might arise in these four legal needs areas are unlikely to be distinct from the problems which male prisoners encounter in these areas and that these categories usually involve a narrower range of problems, important though they might be; and d) we did hypothesize the two issues which we investigated in greater depth to be of primary importance to female inmates and to manifest themselves in ways that would be different from how men might experience problems in these areas.

Prison Programs

We could not, of course, investigate the full range of prison programs which might give rise to inmates' concerns. We concentrated, instead, on the areas about which our preliminary research indicated a high incidence of dissatisfaction by female inmates: jobs, training, and medical care.

Jobs:

Eightyone percent of inmates interviewed held prison jobs; this percentage was fairly constant throughout the four prisons investigated. Two thirds (66%) of the inmates with jobs were assigned to tasks traditionally reserved for females: laundry, maintenance, food service and clerical. While only 37% of inmates had been imprisoned for six months or less, 66% of the jobs had been held for less than six months, suggesting little continuity and opportunity for building skills. Of the 88 inmates with jobs, 51 (58%) earned less than one dollar per day for their labors; not unexpectedly, 61% of inmates found their pay insufficient for meeting basic needs and another 16% found it barely sufficient. Since 34% of inmates receive no money from sources outside the prison, a considerable amount of hardship in purchasing basic items can be inferred.

When asked whether they would prefer another job to the one they held, more than half (55%) replied "yes." The jobs that were considered preferable were, in order of desirability: computer/data processing (23%), clerical (19%), and "other" jobs (17%), i.e., not those most commonly held by women: laundry, maintenance and food service. Almost two thirds (62%) of inmates preferring a different job believed themselves to be, in fact, eligible for their preferred job. When asked the reason for not currently being in their preferred job, the most frequently mentioned reason was "no openings" and the second most frequent reason was "disciplinary reasons." Interestingly, only 6% cited lack of proper educational requirements.

Inmates were also asked their general opinions of jobs at their institution. A rating of "poor" or "very poor" was given by 79% of all inmates, with a range of only 40% at Institution D and as many as 88% at Institution C giving such negative ratings. The most frequently cited reason for such negative opinions was "not geared to the outside." Inmates were asked what kinds of jobs they would like to have available to them. These ranged from auto mechanics, carpentry, and welding to medical aide and cosmetologist. Only 17% mentioned jobs related to traditional women's spheres, and of those, 13% were interested in the more desirable white-collar clerical areas.

It appears from these job-related findings that the bulk of female inmates continue to be assigned to traditional female jobs, jobs which not only earn insufficient pay but which fail to meet the needs of women concerned about economic viability on the outside. Since only 14% of inmates have husbands, who may or may not contribute to family support, and 62% of inmates have minor children to provide for, in addition to themselves, the issue of prison jobs that can prepare realistically for work on the outside is a very serious one for the vast majority of inmates. Female inmates are eager for job opportunities in areas traditionally reserved for men. Women have a basis for their judgment, which we elicited during the interview, that men and women do not have the same job opportunities in prison. While 25% of inmates answered that they did not know, of the 82 inmates who offered their opinion, 77% believed job opportunities to be less favorable for women than for men. The area of job opportunities thus appears to harbor considerable potential for legal action.

Training and Education:

Given women's eagerness for work experience which is geared to economic survival on the outside, the fact that almost three fourths of inmates (73%)

were currently receiving no job training at all is cause for concern. Only half of the inmates (49%) were taking classes at their institution, with half of these (49%) involved in courses leading to the high school equivalency exam. Forty percent of the inmates gave their classes a "very poor" or "poor" rating, with the most commonly cited reason for these negative assessments being "poor teachers." As in the discussion of job opportunities, the conclusion seems warranted that women are experiencing considerable difficulties in preparing themselves for independence on the outside. While issues of training and education may not readily be seen as legal needs, it is possible that a disparity exists between opportunities for male and female prisoners which could justify legal action.

Medical Care:

Of the 107 inmates who answered the question, 92, or 86% had experienced health problems during incarceration. Of those with health problems, 59% rated prison medical care as "very poor" and an additional 22% rated it as "poor." These percentages differed from institution to institution, indicating that inmates could and did discriminate between poor and fair-to-good medical care. The prison where inmates gave the highest rating had been involved in recent litigation that resulted in a favorable decision for two inmates suing because of poor medical care. Changes were ordered and were being overseen by the court.

When the total sample was asked whether their medical problem had been resolved, only 13% indicated full resolution, and 24% partial resolution. That is, 62% of inmates considered their health problem not to have been helped at all by the medical care provided, or to have actually been made worse.

It hardly needs pointing out that the range of medical needs that women are likely to have differs importantly from the range of needs of men.

Unless prisons make specific provisions for proper medical care, both preventive and curative, of women, female inmates are likely to suffer. The magnitude of unresolved health problems among the inmates studied in this report -- whose mean age was 29 years, with a standard deviation of 8.3 years, an age at which health problems should occur much less frequently -- indicates a strong likelihood that rights are being violated and that legal needs in this area exist.

Children's Issues

For the purposes of this project we investigated the relationships of women to their children to understand better the legal needs which exist in this area. Children's issues come under the more general category of child and family issues, an area which we have shown to be of high importance to all inmates, whether they have children or not. However, we were not able, within the confines of this research project, to probe more deeply into family issues that do not involve children. This should be a high priority for future research.

A central factor in the lives of almost two thirds (62%) of the female inmates interviewed is their relationship to their children. In fact, when we include inmates with children over 18, for whom daughters and sons likely continue to be of important concern, the percentage of inmate mothers goes up to 67%. Whereas imprisoned men can almost always rely on someone else to carry the full responsibility for their children, women in prison are for the most part not only continuously and intensely concerned for their children's welfare, they must demonstrate such concern, despite all institutionalized obstacles to doing so, in order to prove their fitness as mothers and to not lose custody of their children.

Of the 67 inmates with minor children, 67% had their youngest child living with them before being imprisoned. (In these and subsequent analyses, we confine ourselves to issues around the inmate's youngest child. Inmates with more than one child sometimes have different arrangements and experiences with their children and such differentiated analyses would become too complex for this report. For simplicity's sake and because the youngest child is likely the one in greatest need of care, we focus our analyses on this child only.) An additional 16% of children lived with the inmate's mother. Only 6% lived with the father or the father's family before the inmate entered prison and only 4.5% were in foster homes. An additional six percent were in other arrangements. Thus 84% of inmates had their children in their own or their mother's care previous to incarceration. Upon incarceration, only 12% of children moved to the father or his family and only 4.5% were placed in foster homes. Most of the children were living with the inmate's mother's family or other close relatives. In fact, 76% of inmates were generally satisfied with their children's basic living arrangements.

This level of general satisfaction is, at first, puzzling in light of the fact that inmates rated this area as being of such high concern to them. To understand this seeming discrepancy, several factors must be considered. First, a number of states still retain "civil death" statutes whereby parental rights can be terminated solely on the basis of incarceration. Women in prison, having heard about this and other threats to their rights as mothers, are rarely fully informed about what can, in fact, happen to their children and thus live in a state of continuous concern that the present "satisfactory" arrangement may suddenly be disrupted. Often the current satisfactory arrangements are conditioned on the good will between the incarcerated mother and the care-taker, a relationship which prison conditions make difficult to sustain and nurture. Unless the mother has established her rights through legal action, she has little control over what actually happens to her child. When mothers rate the arrangements for their children as basically satisfactory, they largely do so out of an awareness of what less desirable alternatives might be imposed on them and their children. Finally, it should be noted that 24% of the inmate mothers were distinctly dissatisfied with their children's care. The effort to do something about these unsatisfactory arrangements, given the obstacles imposed by incarceration, is very likely an all-consuming and strenuous one, bringing to light many legitimate legal needs of incarcerated women. Given the precarious nature of many of the currently satisfactory arrangements, the fluctuations due to changing needs of growing children, and the vagaries in the lives of substitute care-takers, most inmate mothers probably find themselves in the "unsatisfied" category at one time or another.

An indication of the degree of involvement of inmate mothers with their children comes from child visiting data. Sixty-three percent of inmates' children visit them in prison, and this often occurs around much difficulty. Transportation presents a major problem for prisons remotely located; it is often difficult for someone to take the time to bring the child to the mother; and, finally, the circumstances under which mothers see their children are, for the most part, very unsatisfactory for both mother and child.

Being an incarcerated mother clearly involves a considerable amount of stress, much of it caused by obstacles inadvertently or consciously imposed by the prison system. It is possible that many of these obstacles or lack of resources constitute a denial of basic rights. This then is a major area of legal need for female inmates.

Legal Needs of Female Inmates: Summary

This chapter reported and discussed our findings regarding the legal needs of female inmates as these were rated and ranked by the inmates themselves and by various prison system actors. We compared legal needs assessments between the four prisons and between various perspectives. We also studied the way in which major prison actors assessed the comparative needs of male and female inmates.

We found that women prisoners consider all six legal needs categories to be of substantial importance but that some concerns are considerably more important than others.

For all inmates, the issues of jail credit/good time and of child and family relationships were by far the most important. For inmates with minor children, the child and family area outranked the importance of jail credit/good time; for inmates without children this order was reversed. While one of the hypotheses supported by this research was that for female inmates (as opposed to male inmates) child custody and family issues would be a prime source of legal needs, the finding regarding jail credit/good time had not been expected. Nor had the majority of other prison actors anticipated this area to be of such great concern to women.

After the first two most pressing issues, a cluster of three legal needs categories emerged as being of secondary importance: prison programs, appeals, and disciplinary issues. The relative ranking of each of these categories differed slightly according to the particular conditions and opportunities encountered in each prison. In these areas, too, prison officials were generally not very much attuned to what female inmates attached importance to, as indicated by their ratings.

The inmates' ratings revealed a third and least pressing area of concern: that of outstanding warrants and detainers. The major reason why inmates accorded this issue relatively low importance is probably their relative ignorance about what warrants and detainers entail and how to deal with them. These are, in fact, often critical matters for inmates to be concerned about and their relatively low concern might in itself indicate a need, namely the need to be better informed about an issue of such potential importance.

Even though we speak of primary, secondary and tertiary legal needs of female inmates, the ratings clearly showed all of the six areas to be of considerable importance to the women themselves. This was highlighted by the fact that other prison system actors, while sometimes ranking the needs properly, all too frequently underestimated the absolute magnitude of these needs. Furthermore, comparisons between the perceived needs of male and female inmates revealed again a tendency by prison officials to minimize certain needs of women. Some legal needs, on the other hand, were magnified by prison officials; these could often be ascribed to a kind of professional myopia, whereby areas with which a given professional had direct contact would be overestimated in importance. This type of distortion being a common human tendency, it is all the more important for prison systems to mitigate it through conscious efforts to understand and meet real needs.

Having established that female inmates do, indeed, have distinct legal needs, we now turn to Chapter 5 which addresses the next question: Do women have the legal resources necessary for pursuing their legal needs? In Chapter 6 we will discuss what factors appear to be related to availability and actual use of these resources when legal needs exist. We conclude the present chapter with a guiding thought for the rest of this report. Regardless of how many needs women actually have and how many resources prisons provide for them, all people's inner resources are ultimately limited and only the most pressing issues will be pursued. It is likely that if a woman is deeply involved in securing her rights to her children, that no energy will be left for even one other issue.

CHAPTER FIVE

THE LEGAL RESOURCES OF WOMEN IN PRISON

Bounds v. Smith defined adequate legal resources as consisting of law libraries and/or legal personnel. For the purposes of this study, therefore, we used a broad definition of resources, including both materials and personnel, i.e., all those resources facilitating access to the courts. The process by which an inmate selects a resource for litigation depends on a number of factors, such as type of legal concern, the merits of the case, the status of the individual or group involved, and the results sought. No single resource can be expected to fulfill all prisoners' legal concerns and the following assessment is an overview of the most fundamental legal resources necessary to address the legal concerns identified in the previous chapters. Legal resources, both materials and personnel, were assessed according to their actual accessibility as well as to their nominal appearance of availability. For example, the existence of equipment necessary for processing a petition -- such as typewriters -- was noted along with the numbers and types of volumes on the law library shelves. A detailed explanation of the legal resource methodology, including accessibility factors, follows.

Methodology

Standards for Law Library Assessment

The standards used to assess the adequacy of the prison law libraries covered in this research were those of the American Association of Law Libraries (AALL), in particular the special interest section of the library service to institution residents.

The law materials in the women's prisons surveyed were compared to the standards found in "Recommended Collections for Prison and Other Institution Law Libraries," published by AALL in January 1980. However, the research inventory also took into account the presence of additional books or publications deemed by the researchers to be of special value to female inmates, e.g., state regulations relating to welfare and child custody, although these were not specified on the AALL recommended list.

The AALL list divides materials into three parts -- General, Federal, and State materials -- and makes specific recommendations for titles in each category. Each of these categories was defined in terms of materials necessary to provide both minimal and adequate law libraries. Minimal standards required 23 titles, while adequate required 63. Since no law library in the four institutions under study provided more than 19 conforming titles, a separate standard for providing a basis of comparison was developed. This was done by analyzing the areas of law which needed to be addressed and by assessing the number of titles within these areas which complied with these revised standards.

It is important for a lay person trying to find the relevant law in a particular area to understand the relationship between general materials and the State and Federal materials. General materials, or secondary sources, serve as an introduction to and overview of the legal doctrines upon which case law and statutory law, as found in the State and Federal materials, are based. These introductory materials can familiarize the untrained researcher, as most inmates are, with both principles of law contained in cases and statutes and the cases and statutes themselves. It is necessary for an individual pursuing a specific issue to understand the general underlying theory, the method by which the applicable law can be found and understood, procedures necessary to invoke the protections provided by the law, and the language of the law itself. A comprehensive and easily understood legal research manual provides directions for meaningful use of the law library, so that the individual's case is either confirmed as being meritorious or shown to have minimal chances of prevailing. An adequate law library can be utilized to gain access to the courts only when the decision to pursue the case has been made. Clearly, a lack of legal materials in one area can render other materials available useless.

In some cases, however, an alternative resource to the introductory materials can compensate for a library's inadequacy. For example, a legal research course for inmates, operating in conjunction with the library's having adequate introductory materials may eliminate the need for legal research manuals. A legal research course can be of more value than the minimal research materials if there is opportunity for individual attention and if the course meets frequently and regularly. Ideally, materials and personnel with expertise would be available in prisons, so that law clerks could be trained to assist inmates not yet able to use law materials productively.

A law library with a minimal collection of recommended materials would contain:

1) basic general materials (from 10-16 books), broken into three types: reference books (law dictionaries, directories, and prison law library manuals), legal research aids and prisoners' rights manuals. AALL recommendations for additional general materials cover nine different subjects and total 23 titles. Many of the volumes recommended are in the nature of "hornbooks," i.e., comprehensive treatises on a particular subject or area of law, such as contracts, torts or criminal law. Form books and criminal law periodicals are also recommended. Most of the general materials recommended would be useful in acquainting a reader with general theories of law in the area addressed, as well as familiarizing a lay person with pertinent cases that have established precedent.

2) Federal and State materials, consisting of series and volumes used to research specific cases, are important because they contain the decisions and statutes that are current law. The exact language of the courts and the legislatures in establishing or applying law is contained in the Federal and State statutes and reporters, or primary sources.

Where the AALL standards specified "one or more of the following," inclusion of at least one title was considered adequate for establishing minimally adequate provision. Therefore, if a library had any one of the suggested basic titles, it was considered minimally satisfactory. If it had more than one of the alternative materials, it was assessed according to the number of extra materials. When alternative publishers were given, such as Lawyers Co-op or West Publishing, either one was considered adequate. Having both would not increase the amount of legal materials available, but would be mere duplication of the same materials.

Under the revised standards adopted by this project, the absolute minimum for a barely useful legal collection must have a total of 21-23 titles: 10 to 12 general materials, 6 Federal and 5 State. In contrast, a fully adequate legal collection has 16 basic general materials, 23 additional general materials, six basic and six additional Federal materials, and seven basic State and five additional State materials, for a total of 63 titles.

While different titles are specified for each state in provision of State materials, the number of areas that need to be addressed by these volumes is consistent among the states. Therefore, even though the number of volumes recommended for each individual state may vary, there are five areas to be addressed in each state. For this reason, comparison among the states surveyed reflects five state volumes, but in the actual inventory of the individual institutions the specific volumes recommended for that state are the standards against which the available titles were assessed.

Where a legal collection contained general, Federal or State material that addressed the area of law covered by a specified title, but did not contain the particular title recommended, the non-conforming title was noted (see Chart 1). For example, if the recommended general materials included a legal research manual and suggested one or more of four specific manuals, an institution having a manual, but not one of the four suggested, would be assessed as having a non-conforming general title.

Accessibility of Materials

In order to ascertain whether or not the resources provided could be used to their fullest potential, the assessment of resources included a number of factors affecting accessibility. An inventory was compiled which included departmental and institutional policies, as well as services and equipment affecting use of law library materials. These were duplicating facilities, typewriters and notaries; library hours and space; established procedures for use of law library and support equipment; formalized directives compared with actual practices related to these; inmate awareness of law library and procedures for its use; provisions for use of the law library in special circumstances (segregation, inmates' court deadlines, release from institution job); and provision for correspondence with courts and outside law library resources.

Legal Personnel Assessment

The language of the U.S. Supreme Court in its Bounds v. Smith decision allows for access to the courts to be accomplished through the provision of legal materials and/or legal personnel. In complying with the requirements of this decision, various states have adopted legal resource programs that rely heavily on either provision of materials or personnel. While no set of standards explicitly states criteria for an adequate legal personnel program,

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there are certain elements that greatly contribute to the effectiveness and success of legal services programs for inmates. While a program staffed by competent, adequately trained and experienced people is important, there are additional criteria the research team deemed even more important. These were compiled from the literature on the subject as well as opinions of legal personnel addressing this issue.

For the purposes of this project, those people considered legal personnel are as follows: private attorneys; public defender and court-appointed attorneys; prisoners' rights and legal aid attorneys, institutional attorneys; law students and law school clinical programs; law librarians; inmate law clerks and jailhouse lawyers; prison staff who provide services, i.e., counselors; and some grievance personnel.

Legal personnel were assessed according to the degree of training and expertise they possess, the amount of time they devote to prisoners' work and the range of legal services they provide. If outside programs were providing services, information was collected on funding source, amount and continuity. If the program was provided through the institution, data was gathered as to personnel availability. Both types of programs were examined for restrictions on the type of work that could be handled.

Since the degree of prisoners' actual access to resources depends on a number of factors, these accessibility factors were included in the assessment of legal personnel. They include State Department of Corrections and institutional directives on inmates' use of telephones for legal calls, legal mail, legal visiting, and access to inmates in segregation seeking legal assistance, as well as the actual practices relating to telephone use, legal mail, legal visiting, and access to inmates in segregation. The number of lawyers available in a program and the distance from the program's office to the prison were also considered.

Procedures of Data Collection

The assessment of legal materials was conducted primarily through site visits to prison law libraries where the materials available were checked against the AALL list of recommended titles by a member of the research team. The librarian or law clerk was then interviewed as to further resources, specific hours the library was open, and the procedures necessary to make use of the law library. The researcher also noted information posted relating to the use of the library and equipment available for inmate use in doing legal research. Where possible, the state's requirements for law library materials were obtained and those titles checked against those actually present in the prison law library.

An attempt was made to gather materials from male institutions of similar size so that comparisons could be drawn. Requests for lists of law library materials available were sent to various male facilities but the response rate was not adequate to provide a basis of comparison. Therefore, where available, materials regarding prison law libraries were requested from the State Department of Corrections. Such lists represent the minimum standards of the department for each state facility, but may not be representative of the materials actually available in the facilities.

Before sending mail questionnaires to any of the legal service programs, a member of the research team contacted the program by telephone, and once the questionnaires had been returned contacted the program again. This follow-up permitted the researcher to clarify any ambiguous responses, answer any questions the respondent might have, and probe for indepth responses where indicated.

State X: Institutions A & B
Research Findings

Departmental Directives

Guidelines for the operation of prison law libraries and for the provision of legal assistance to inmates by fellow inmates were available from State X's Department of Corrections. The directives address a number of issues regarding law libraries and apply to Institutions A and B.

Law Library Access:

The purpose of a prison law library, according to the directives, is to give inmates the necessary resources for research for preparation of legal papers. The institutions are required to give all inmates regular access to the law library, providing "adequate opportunity to visit and study in the library; or provision for book requests, delivery and pick-up at the inmate's cell; or for the combination of the foregoing." While books are not usually allowed out of the library for cell study in a prison, inmates not in the general population, such as those in segregation or keep-lock, can request books from the law library, and the facility must make special arrangements to accommodate their needs. If an inmate has no other obligations in the institution and if there is space available, the departmental directives state that the inmate cannot be denied access to the law library.

The directives are very specific as to hours and the prisons' responsibilities regarding law library structure. "Law libraries shall be open," they state, "for use a minimum of seven hours per day, at least six days per week, unless written permission to do otherwise is granted by the Department Counsel." The staffing should include an employee designated as law librarian, as well as an appropriate number of inmate law clerks, and books are to be made available to inmates on a first-come, first-served basis. In addition, the directives charge the institution that "Inmates are to be made fully aware of how they may apply to use the law library or books and what restrictions are imposed on their use." The Department of Corrections recognize that providing legal resources alone is not enough. Access to materials means more than just physical access. To address this, superintendents are required to have trained personnel conduct ongoing programs for inmate law clerks to ensure a continuing supply of trained clerks. Finally, the directives provide that inmates having complaints about access to and/or use of the law library in an institution can contact the institution law librarian or superintendent or can write directly to the Department of Corrections Counsel's Office.

Legal Personnel Access:

The Department of Corrections' guidelines govern not only provision of legal materials, but also provision of and access to legal personnel. Again, these directives apply to Institutions A and B in this study. The policies deal with issues related to inmate legal visits, telephone access for calls to legal personnel, privileged correspondence between an inmate client and her attorney or legal services representative, and legal assistance between inmates.

For legal visits with inmate clients, attorneys and their representatives are required to give 24 hours notice to an institution, either in writing or by telephone, stating which inmates have asked to be seen. An institution superintendent can deny legal visits of any attorney or representative for good cause "if such action is necessary to maintain the safety, security and/or good order of the facility." Before doing so, however, the superintendent must receive the opinion of a Department of Corrections attorney. Legal visits are to be conducted during normal visiting hours, except when special circumstances arise, and these are dealt with on a case-by-case basis. Legal papers can be exchanged during visits, but must be examined to make sure they do not contain contraband. The directives note, "Care is to be taken not to read the contents of the papers." The location of attorney-client visits is determined by the prison superintendent who is directed to take into consideration the need for confidentiality of communications during legal visits.

Directives on telephone access to legal personnel are the same as those for telephone access in general. Inmates are limited to two collect five-minute calls each month, and calls can only be made to persons on a previously approved list at a predesignated and approved telephone number. When an emergency situation arises, an inmate can request that an emergency call be permitted, and this is made initially at facility expense, usually from the Chaplain's Office. When the toll charges for an emergency call are received from the telephone company, they are charged to the inmate's account. Hours for telephone access are set by the superintendent of each institution, and inmates are notified at least ten days ahead of time when they will be allowed to place calls so they can alert the recipient to expect the call. Once initial contact is made by the inmate and collect charges are accepted, the corrections officer assigned to monitor the program is directed to cease monitoring the conversation.

State X guidelines addressing privileged correspondence provide that outgoing legal mail is not to be opened or inspected in any manner unless authorized by the facility superintendent. Prior to doing this, the superintendent must have written to the commissioner of Corrections explaining in detail the basis for such inspection. The directives define privileged correspondence as being mail between an inmate and various designated officials, including all members and staff of the Department of Corrections, state legislators, judges and clerks, as well as the inmate's attorney. Outgoing mail from an inmate to any of the above may be sent according to the provisions of the free postage program. Incoming privileged correspondence may be opened and examined for checks or contraband, but only in the presence of the inmate. Such correspondence cannot be read unless there is good cause to believe the "attorney is using privileged correspondence to introduce contraband or non-legal documents to the facility," and this, too, can only be done in the presence of the inmate to whom the mail is addressed. It is unclear as to whether or not this provision which specifically refers to an attorney would also apply to the other categories of privileged correspondents.

If an inmate wishes to request legal assistance from another inmate in the same facility, the law librarian must be consulted and that person will then ask the requested inmate if she/he wishes to provide such assistance. The directives state, "No payment of any type from or on behalf of an inmate shall be permitted in exchange for legal assistance." If the requested inmate agrees to provide legal assistance, the superintendent must give approval. In an institution with qualified inmate clerk librarians, any inmate can request their help in preparing legal papers, again through the law librarian. This person is to maintain a list of inmates seeking assistance and assign law clerks on a first-come, first-served basis.

Legal Materials:

A list of required legal titles compiled by the State Department of Corrections provides the institutions in the state with the minimum collection mandated. The list was available through the state law librarian for state facilities. It was considerably less extensive than that recommended by the AALL standards. Fourteen of the AALL recommended titles were included, plus an additional five titles. The minimum collection required primarily addressed state law.

Institution A

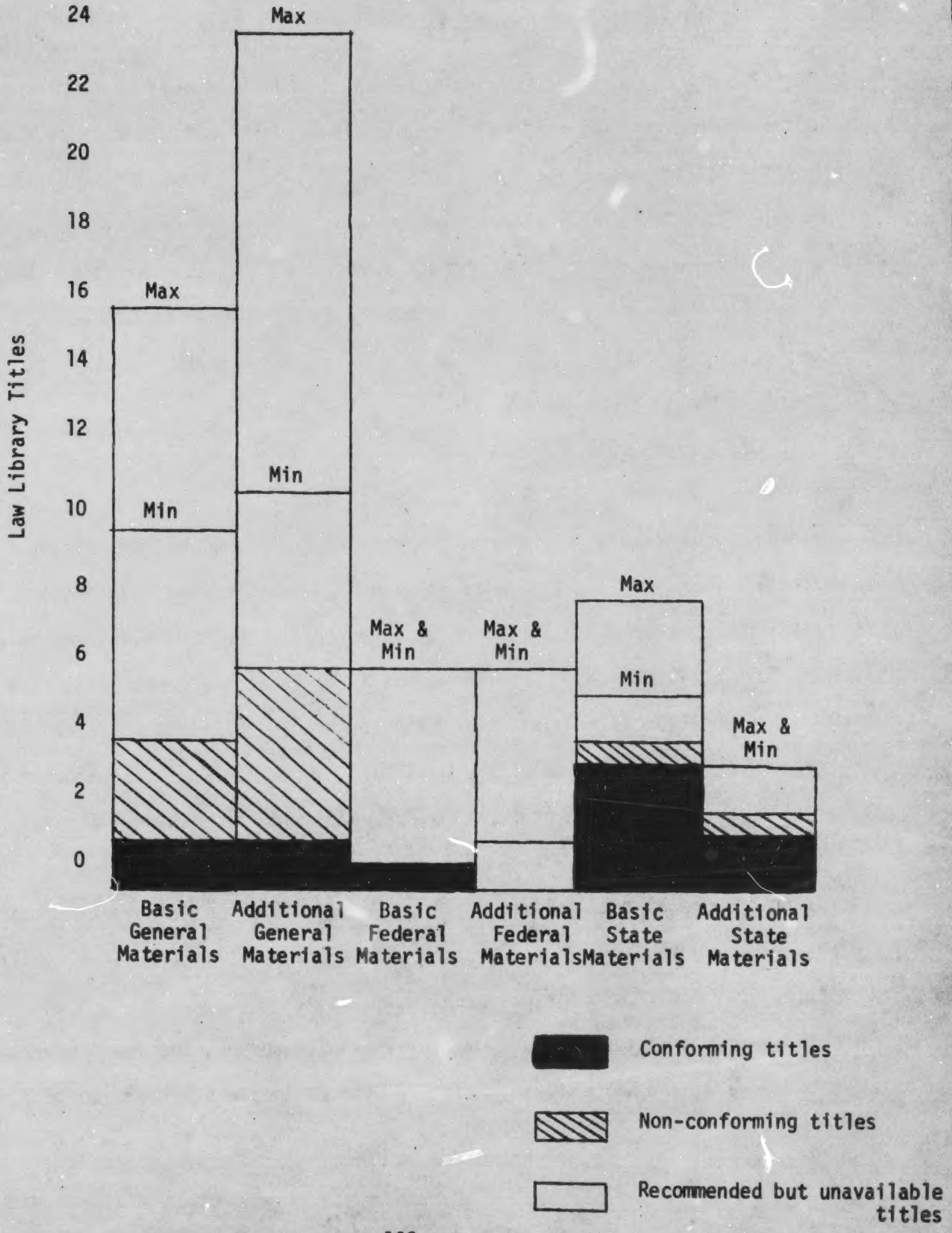
The law library for female inmates housed at Institution A is located in the women's housing unit. The library is very limited, so much so that no more than three inmates can use it at one time, out of a population of approximately 90. It would be almost impossible for an inmate to have a private conversation with a law clerk if the library was being used by other inmates. A small room next to the library provides some additional space and also doubles as a typing room. A window on the hallway permits prison staff or other inmates to see who is working in the typing room.

The library materials consisted of relatively new volumes, most of which were state materials. Three of the five categories of basic recommended state materials were available and one of the three additional titles. Federal materials were very limited, with only one volume of one set available out of six recommended collections for basic coverage. No additional federal materials were provided. General materials included one conforming title and three non-specified titles. A handbook specifically designed for female inmates' child custody issues was available, and while it is outdated it remains the most recent comprehensive work addressing the issues. The result of the assessment was that this institution was rated as having the best provision of general materials of the four facilities assessed (see Figure 1). However, compared to all standards, provision of legal materials at Institution A scored low, even for a minimal legal collection.

As far as access to legal materials was concerned, the law library hours are 8-11 a.m. and 1:15-3:45 p.m. daily, with an inmate clerk or inmate librarian

Figure 1

Law Library Collection: Institution A



in attendance. A clerk was also on call for work in the evenings and on weekends. Inmates wishing to have materials duplicated give them to the inmate law clerk who gives them to the counselor for duplication in the main building at a cost of ten cents per page. A typewriter is available for inmate use, but needs repairs. Supplies, such as paper, paper clips and staples, can be requested from the law clerk who then requests them from administration. Notary publics are available by appointment in the administration building.

While inmates in segregation can theoretically request legal materials or the assistance of the law clerk, there is no formalized procedure to ensure their access to either materials or the clerk. Books are not allowed out of the library under any circumstance. The law library staff knew of no special provisions whereby an inmate's court deadlines were considered. Inmates are not released from work duty to use the library.

If a clerk or inmate needs material that is not found in the women's law library, the law clerk can ask the law librarian in the adjacent men's facility law library for the materials, but this remains an informal procedure. The law clerk in the women's unit indicated she has had contact with the Department of Corrections institutional law librarian in requesting material and as a result received state digests for the women's law library.

The only internal legal personnel available to women at Institution A was the inmate law clerk. The staff law librarian in the men's unit has only limited and sporadic contact with the women's law library, and no formal procedures have been established to facilitate such interaction. The inmate librarian for the women's library works only in the mornings and, given her limited legal knowledge, functions more in a custodial capacity than in a legal resource one. The inmate law clerk was relatively experienced and well-trained, having attended a law clinic while incarcerated at another institution and having completed a legal course sponsored by a law book publishing company. Her participation resulted in her working with an attorney from the Legal Assistance to Prisoners program to bring a law library into the women's unit. She is certified by the state to provide legal assistance to her fellow inmates, as required by the Department of Corrections. The clerk has been assisting inmates since 1978 and continues to encourage women to seek her help, particularly in anticipating problems by trying to prepare for hearings well in advance. She estimated that she helps about twelve women a week, with most of her work focusing on issues related to child custody.

Telephone access to legal personnel at Institution A is governed not only by the state's Department of Corrections directions, as mentioned earlier, but was further subject to institutional policies, particularly those related to the prison's incentive program. Under the provisions of the incentive program, an inmate can earn up to four "extra" telephone calls each month if she has accummulated 600 points within a 31-day period. The calls have to be placed after 6:30 p.m., must be collect and can last no longer than five minutes each.

The policies governing telephone calls pose some obvious problems for inmates. Women who need to contact attorneys or social workers find it difficult to reach them after 6:30 p.m. When it is necessary to call an individual or program during normal working hours, the inmate has to receive special permission. The five-minute time limit for calls makes it hard for inmates to attend to problems that require longer conversation.

Women on work release often face additional problems. Generally, they are not back in the institution during the time telephone calls are allowed, and they, too, must seek special permission to place calls during the day. There are no guidelines for determining these special time arrangements for work release inmates, and one woman found it of particular concern. She had received court-ordered access to telephone calls at hours that varied from those established for the general inmate population. Since she has been approved for work release, she will be out of the institution at the times the court has said she can make the calls. If she places them while she is on work release -- the approved times -- she will be violating work release rules. She believes that without administrative cooperation, she will have to seek another court order.

As far as mail issues are concerned, each inmate is allowed seven free letters per week. None of the women interviewed complained about having their legal mail tampered with by prison officials. The prisoners' legal assistance program, however, stated that some of their inmate clients had complained that they were not receiving mail the program sent them.

Three external legal service programs operating in the vicinity of Institution A provide direct legal assistance to the inmates there. Each was sent a questionnaire and a telephone interview was conducted with each for more specific responses. The state's prisoners' assistance program returned a completed questionnaire, and the legal services program providing inmates with civil assistance sent back a partially completed one. The law school program did not return the questionnaire.

The state's prisoners' assistance program provides the bulk of legal assistance available to inmates in the institution. It is a state-wide agency with offices in various regions throughout the state. The area office which serves Institution A also provides legal assistance to inmates at the nearby male correctional facility, one of the largest in the state. The office staff is made up of three full-time attorneys, one paralegal and two law students. In the year preceding the interview, the office received more than 1,000 requests for assistance, with an estimated ten percent of these coming from female inmates. The assistance the program gave its inmate clients was broken down as follows: offering advice or information (20%), investigation on behalf of an inmate (20%), negotiation on behalf of an inmate (20%), and appearing on behalf of and representing an inmate (20%). The remaining cases were referred to other sources of legal assistance (5%), involved assisting with forms and documents (1%), or involved assisting a prisoner appearing pro se (1%). The program restricts its legal services only when other legal counsel is available, and then it will decline representation.

The program generally receives its first communication from an inmate client through the mail, and about 50% of their ongoing client contact is maintained through correspondence. Another 50% of the cases are handled through personal contact with the inmates. Telephone contact from inmate clients is negligible, although the program does accept collect calls from prisoners. Since no full-time or part-time office was maintained within either of the prisons served, consultation with inmate clients took place in attorney rooms in the institutions. The staff had not experienced any particular difficulties in communicating with inmates at the institutions, but reported that delays in interviews were common, as were complaints from clients that they were not receiving mail the office sent. The interviewee did not cite a specific institution.

The program has handled three class action suits since 1976, two addressing issues at male facilities and one involving Institution A. The latter case was not litigated, because the named plaintiff's release mooted the issue. Several cases that were potential class actions, but were not proceeded upon as such, were being pursued in state courts at the time of the interview.

The regional office of the legal services organization, Legal Services, Inc., responded only in part, because they estimated less than 25% of their casework was prisoner-related, and they were uncertain they could answer the questions related to prisoners accurately. The program employed five full-time attorneys and two paralegals, their work focusing on counseling in welfare, family, housing, consumer, and general poverty law matters. The office provided minimal services to inmates at Institution A and even less service to prisoners at a large male facility also located in the program's catchment area. Of the fifteen requests for assistance the office had received from inmates in the preceding year, only six had come from female inmates. Most of both initial and ongoing contact with inmate clients was done through mail communication, visits to the prisons occurring only in rare instances.

According to the interviewee, the program generally responded to inmates' requests for assistance by referring them to appropriate agencies, particularly the previously-mentioned prisoners' legal assistance program. Due to the program's limited involvement with prisoners' litigation, detailed statistical records of requests from inmates were not available. It was known, however, that many of the requests involved divorce matters and came from male inmates as often as from female inmates.

As mentioned above, the law school program did not return the project's questionnaire. In the telephone interview, the program's representative said they have done minimal work in the women's prison, but are not presently involved with the inmates there. The office also provides services to the nearby male institution and is overwhelmed by the requests for assistance from that prison. The staff person indicated a continuing interest in and concern for the female inmates, but said the office cannot respond at this time to the situation in Institution A.

Institution A: Summary

Institution A's legal resources system relies on internal resources with some augmentation from external programs. There is a law library which is staffed by an inmate clerk, assisted by other inmates operating in less vital capacities. Training programs have been offered in the past, and, indeed, provided the original impetus for the inmates' asking that a law library be provided them. The original request was followed by the women contacting legal personnel outside the institution in an effort to strengthen the inmates' position with the administration and, thereby, increase the possibility that the library would be provided.

However, that initial effort has not resulted in continued, regular contact between inmates and legal personnel. Outside programs are generally contacted only when an issue activates a sizeable proportion of the inmates.

The internal resources provided by the institution were found to be lacking, particularly in the area of legal materials in the law library. The project team found no formalized institutional policies related to use of the library. Directives from the state Department of Corrections, however, dealt not only with use, but also materials that should be provided in the library, as well as institutional personnel necessary and issues surrounding legal correspondence and visits.

While a training program for inmate law clerks was offered by a nearby law school in the spring of 1981, no provisions have been made to continue this program. The end result is that training that would ensure a continuous flow of law clerks is sporadic, a genuine problem since the bulk of legal assistance to women inmates is provided by the inmate law clerk. Four inmates were identified as being legally active inmates other women might contact for aid, but one was functioning as a compensated inmate clerk, and another serving as law librarian half days. Of the remaining two inmates, one was within a month of her release date, and the other had just begun a work release job that kept her out of the institution fifteen hours a day. The inmate law librarian gave no advice or information to other inmates, had received no legal training, and clearly did not function as a law clerk or jailhouse lawyer. That means that a single inmate law clerk provides most of the assistance offered inmates in Institution A, and her assistance is most often limited to providing information and advice, helping with legal forms, or referring inmates to attorneys.

The external legal resources available to women in the prison are essentially three distinctly different programs -- a law school training program, a legal services organization handling civil cases, and a prisoners' legal assistance program handling issues peculiar to inmates. Theoretically, the combination of these three programs should provide a comprehensive system of legal resources to inmates, complemented by the legal materials available within the institution. In actuality, this does not happen. While there is not one single, outstanding factor that substantially impedes inmates' access to either legal personnel or materials, the overall scheme for providing legal resources to the women does not function in a dependable, adequate manner.

The law school training program, as discussed earlier, is not currently involved with the inmates at the prison. The inmates are left, then, with a legal services organization that rarely represents prisoners and the prisoners' legal assistance program which does not maintain consistent contact with the inmates. A spokesperson for the latter program indicated they have less contact with the women inmates than the program would like or than they feel is needed. The last time the prisoners' assistance program was actively involved with the inmates at Institution A was when the issue of the law library arose.

The picture of legal resources available to inmates at Institution A emerged as a patchwork of materials and personnel. Neither functioned as well as they could, but also neither functioned in a fashion so inadequate as to render them completely ineffective.

Institution B

Legal resources at Institution B were presented in a more integrated model than at any of the other institutions accessed. The most complete collection of legal materials was offered, the largest number of inmate clerks was available and they had the greatest expertise. In addition, the programs offered by outside legal personnel were the most extensive encountered.

As with A, the state directives offer guidelines for provision of law materials and inmate law clerks, access to both, and also policies regarding legal visits to inmates. Institution B added its own institutional policies regarding law library hours, procedures for use and operation of the library, and the support equipment necessary for it.

While these formalized policies provide the foundation for access to the law library, there are other, less formal, procedures that often are not in accord with official statements and may actually affect the library's operation more.

The most recent set of institutional policies for the law library were written by the deputy superintendent of programs and went into effect in December 1980, around the time the law library was moved from the education building into the housing unit. The policies give the law library hours as being 10-11:30 a.m., 1:15-4:15 p.m., and 6:30-8:30 p.m., a total of 6½ hours each day, seven days a week, for a total of 45½ hours each week. Access to the library was to be unchanged, despite the recent site change, except that the lobby officer was put in charge of access. Whenever an inmate wants to use the library, she is to have her corridor officer call the lobby officer. Inmates in programs have to submit their names to the lobby officer so they can arrange for library use either at night or on weekends. The policies also note that inmates with hospital, clinic and other maintenance assignments should also use their corridor officers, not their assignment officers, for contacting the lobby officer. Finally, use of the library is to be limited to six inmates at a time.

The facility's policy on law library mail states, "The business office and correspondence clerks will put all law library mail in the lobby mail box to be picked up for each shift at the switchboard, every day by the lobby officer." Duplication of legal materials is done twice a day, Monday-Friday, in the education building, all of it being gathered together and delivered there by the inmate law clerk. However, if an inmate's briefs require more copies than the school building can handle, school personnel are responsible for making arrangements to have the copying done through the facility's Program Office.

If an inmate requires information or material from the Inmate Records Coordinator Officer for preparation of her case, she sends a request to the vocational supervisor in the education building through the law clerk making the twice-a-day copying run. The policy states that the vocational supervisor then forwards the request to the Inmate Records Coordinator Office, except in emergencies when the lobby officer handles the request directly with the Deputy Superintendent of Programs.

Notary services in the institution are provided by the Volunteer Coordinator who is available once or twice a week ("according to his schedule") in either the lobby or the law library. The policy continues, "Work needed on a daily basis will be brought to his office at 10:14 a.m. and 2:15 p.m. (to be followed by copying at the school) ."

Requisitions for supplies for the law library are first sent to the Vocational Supervisor for approval. The list is then sent to the Program Office for processing through the prison's business office and materials are delivered once a month from the storehouse. The policy states, "All areas are having problems receiving some supplies."

All of the above procedures relating to the operation of the institution law library are evaluated, the policies indicate, and when necessary "adjustments are made as needed for effective operation of this program."

The practices related to access to the law library, while built on the above policies, do not always mirror the situation described in them. The law library opens at 8 a.m. for the law clerks, so they can work with the newly-admitted inmates in quarantine. The hours given above are generally followed, with the exceptions of morning hours ending at 11 a.m., rather than 11:30 a.m., and afternoon hours beginning at 1:30, rather than 1:15 p.m.

The ambiguous policy on law library mail does not operate, even in its vaguely worded way, because there is no mail box for the law library. The practice is that incoming mail is taken to the housing units, and outgoing mail from the law library does not seem to be subject to any special procedure. A number of inmates complained that their legal mail had arrived already opened.

The actual copying procedure is much more informal than that suggested in the policies. The law clerk takes the material to be copied to the school building during the afternoon and asks the secretary there to have copies made. Depending on the workload of the secretary, copied material can take as long as two weeks to be returned to the law clerk, especially if many copies are needed. If less than 14 copies are required, the inmate law clerks often type the extra copies themselves. When large numbers of copies are requested -- the exact number that would apply is not known -- there is a copying charge of $.20 per copy.

Despite the institution's policy, there is no notary available to the inmates and has not been since March 1981. Documents requiring notarization include a statement, typed by the law clerk and signed by the Deputy Superintendent of Programs, stating that no notary is available. While including this has been sufficient in waiving the notarization requirement in appeals cases, it has not had uniform success otherwise. Prior to March 1981, the notary was available twice a week, as indicated in the policies.

Requests for information from the inmate records generally follow a less precise route than suggested above. The law clerk usually requests the information, in writing, directly from the records coordinator who responds after varying periods of waiting.

The Department of Corrections directives concerning legal materials at Institution B are issued by State X and have been discussed earlier.

As mentioned above, the prison law library was recently moved from the school building to the women's housing unit, a move the administration attributes to an effort to provide greater access for inmates. The inmates themselves, however, felt the move was made to make space available in the education building for other programs and was not an attempt to help them.

The new location is a fairly good-sized room which is well-lit and pleasant. It provides ample area for inmates to use the materials, which are well-organized and fill all the available shelf space. There are two desks and typewriters for the law clerk on duty and, apparently, for an assistant clerk.

The law library appeared to be fairly active, with a number of women either working on cases or discussing the law. The door to the library was generally closed, and it seemed that private conversations could take place without the guards overhearing. There probably would be a problem with an inmate having a confidential discussion with a law clerk, since others in the library could easily hear, and there was no other place to have such talks.

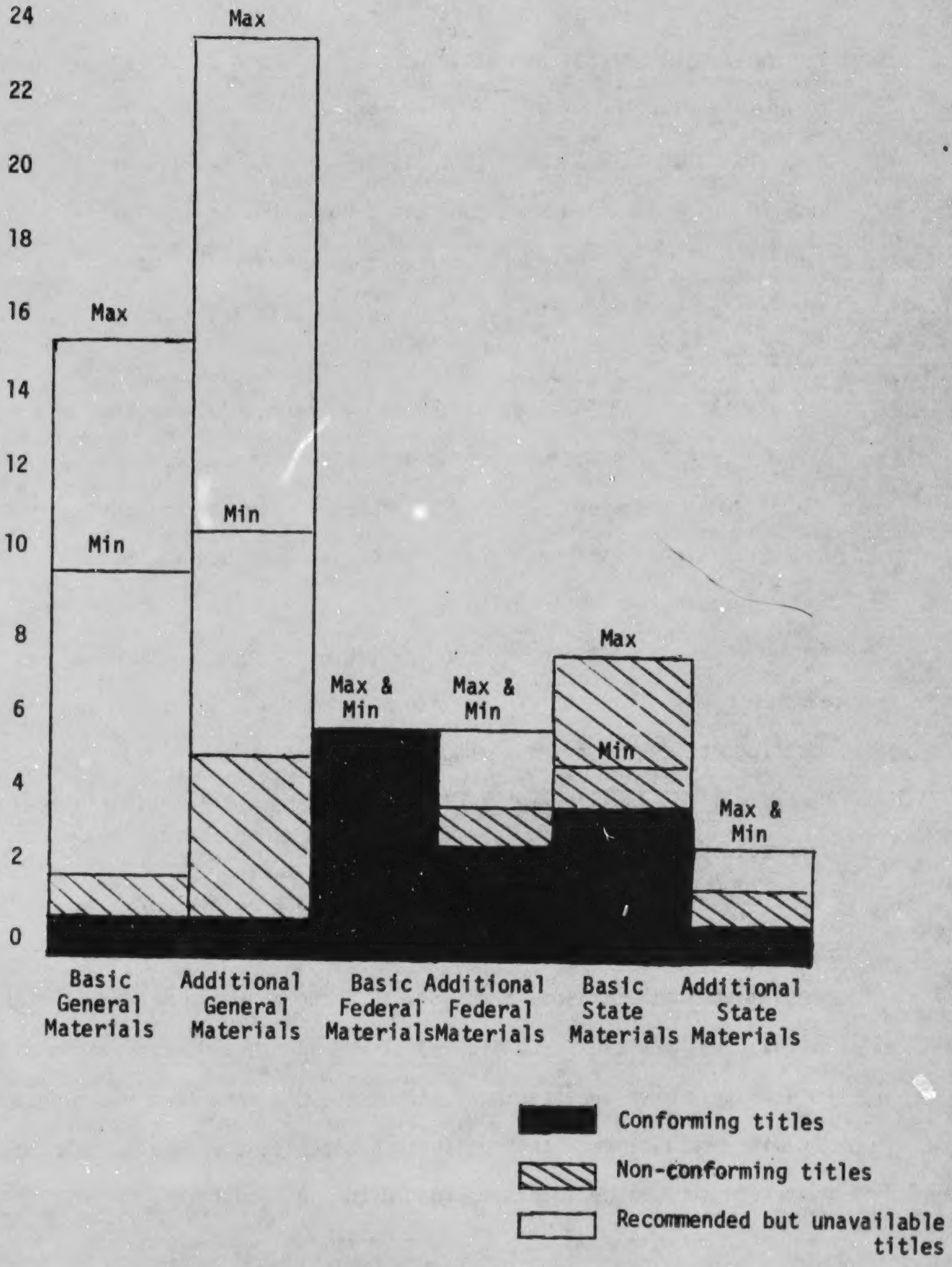
One of the most interesting features of the law library was a simple bulletin board. It was used to post various cases -- including those that involved the institution -- and to provide a list of lawyers and organizations that were involved with or served inmates. A sign-up sheet for women who wanted to speak with representatives of the volunteer legal project had several names, possibly as many as seven, on it.

The law library materials at B were the most extensive of any of the prisons inventoried (see Figure 2). General materials were the least available, and only one out of the ten to twelve titles recommended for a minimal basic collection was offered. Additional general materials were also inadequate, with two conforming titles provided out of the suggested minimum of eleven.

All six basic federal materials recommended were provided, as well as three of the additional federal materials. Four of the five specifically recommended titles for the basis state materials collection were available, plus one additional collection suggested by the AALL. A state research manual which was generally recommended, but not specifically named, was also provided. Four areas suggested by the state titles were addressed in other publications in the law library. All of the materials in the library

Figure 2

Law Library Collection
Institution B



were up-to-date and arranged in an orderly, easily accessible manner.

The library also contained a sizeable collection of materials that were not on the recommended list. These included a complete collection of tax materials, as well as two volumes of Corpus Juris Secundum pertaining to criminal law.

For support equipment, the library has the two typewriters mentioned, each of which is in working condition, but reportedly inferior to those available for law library use before the relocation. Duplicating facilities are located in a separate building, and materials have to be taken there for reproduction.

Books are allowed out of the law library only when they are requested by women either in segregation or otherwise removed from the general prison population. Law clerks are not permitted to have direct contact with inmates in segregation, but they can send books to them upon request.

To date, the institution has made no provision for releasing inmates from work assignments to use the law library or for court deadlines. When a women needs a book or publication not found in the prison law library, she must request the material through the inmate law clerk from the Department of Corrections law library. This procedure has often resulted in a considerable delay before the material is provided.

Special material, such as bilingual material or personnel or prisoner publications, are provided rarely if at all. Even though the Hispanic population in the prison is roughly 15%, there are no bilingual legal materials or bilingual law clerks available. The Prison Law Monitor was provided to inmates only when an occasional back issue was sent from the nearby male facility. While some other prisoner publications were available to the women, none were subscribed to or provided with any regularity.

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The institution's focus on internal resources -- whether generated by their availability or resulting from it -- has left the initiative of access to outside resources largely in the hands of either the inmates themselves or the external legal personnel. Even in the provision of internal resources, such as legal materials or personnel, there are stumbling blocks which impede the inmates' access to the courts, and many of these are within the control of the institution. The titles available in the library reflect a good collection of primary sources, ones that can best be utilized by those trained in legal work. A continuous supply of trained law clerks would provide the key element in making the best and most consistent use of these materials. However, the prison made no mention of a regular series of training classes to ensure such a supply, although sporadic courses had been offered in the past.

The secondary sources that could serve as research aids and introductory materials if law clerks were unavailable are lacking, leaving the inmates almost completely dependent on the clerks for legal assistance. Their continued provision at the prison is not assured, and, if it were, women who prefer to handle their own cases would be left with few options without the missing secondary sources. The uncertainty of the law clerks' status affects the options of the inmate population as a whole.

An inmate who is able, with the help of the law clerk, to utilize the materials in the law library may quickly run into difficulties in filing the court papers she has prepared. The absence of a notary public often slows the progress of the case, since some officials have waived this requirement for inmates at B, but others have not. The woman may have to submit and resubmit documents or requests for documents, or she may find herself conducting protracted correspondence with court officials which can lead to unexpected costs and discouragement. The inconvenience involved in the facility petitioning for appointment of a notary public hardly balances with the burden placed on the inmate seeking access to the courts without such necessary legal support.

Access to legal personnel at Institution B relied heavily on the facility allowing personal contact and correspondence between inmates and legal assistance programs. Telephone contact was very limited and was the same as telephone contact with inmates' families and friends -- two collect five-minute calls each month to previously approved persons and telephone numbers. No institutional guidelines had been established which addressed legal mail, telephone access and visiting policies, so the practices were governed by directives from the State X Department of Corrections.

Internal legal assistance personnel at the prison consisted of the seven to ten inmates identified as being legally active who either worked as law clerks in the library or functioned as jailhouse lawyers. The law library was staffed entirely by inmate clerks, with one having been there the longest serving as head inmate clerk. The services the inmate staff offered were the most extensive given by any inmate legal assistance in the institutions studied. The State Department of Corrections had provided a training program for law clerks seven years ago, but the most recent training had been given by a male inmate from a nearby facility who taught a legal research course. The law clerks interviewed saw themselves as primarily self-taught, but having acquired some additional skills through the research courses. They have been teaching legal research courses to other inmates for some time, but expressed hope that a course would be offered next year by outside personnel. A law school program that has since ceased to offer services to women at Institution B provided training courses at the facility three or four years ago.

The law clerks estimated that between thirty and forty women sought legal assistance each week, and about 75% of these requests were from women pleading pro se. The clerks provided aid in a number of areas, including brief writing, domestic issues, matters of good time computation, and outstanding warrants. Overall, the level of assistance they offered was impressive and their contact with external legal personnel well coordinated and regular.

Of the four external legal assistance programs, three out of four maintain regular contact with the inmates at B. The legal assistance to prisoners project's attorney visits the facility as often as necessary to talk with inmates about ongoing cases. The legal services office staff not only visits its inmate clients, but also maintains telephone and mail contact with them about suits being handled. The volunteer attorney project schedules visits to the institution every two weeks, so that inmates who have signed up can see the representative.

Of the three having regular contact with inmates at B, two indicated they had encountered difficulties with seeing their clients there. Sometimes, they said, the inmates were not sent to see the visiting representatives, while other times they were sent after long delays. Each of the programs noted, however, that problems had been worse in the past, and one indicated the improvement had resulted from a lawsuit against the prison. The program that had not experienced problems in visiting did note it had had problems with mail being opened and with delays in mail deliveries. Again, however, the difficulties were said to have been resolved.

The programs said they had also had other problems involving contact with inmates, particularly with telephone contact. One program said its telephone contact with inmate clients was allowed only as a result of a lawsuit against the institution, and then contact was limited to lawsuit matters.

Interestingly enough, the two strongest complaints about contact with inmates came from the two programs involved in prison condition litigation against the institution. The other program indicated it had fairly liberal access to the prison and was the only one not restricted to interviewing clients in visiting rooms.

These four programs together provide legal assistance in the areas of civil matters, criminal appeals and litigation regarding prison conditions. The legal assistance program that dealt only with prison-related work offered services ranging from aid in civil matters to challenges to incarceration, as well as suits related to prison conditions and class actions. It estimated that 10% of the 7,000 requests for assistance it had received in the preceding year had come from female inmates. This was the major legal service provider for inmates at B, in terms of number of staff attorneys, variety of cases accepted and least restrictions for identifying potential clients. It was also the only one of the programs that had received funding cutbacks from its funding source -- the state legislature. The program also reported the least cooperation from and greatest degree of difficulty in working with the prison's staff and administration.

Of the three remaining programs, one was funded as part of a major urban center's Criminal Appeals Bureau and only handled civil cases about prison conditions for indigent city residents who were incarcerated in either city or state correctional facilities. The program currently is involved in 22 class action suits, five of these originating with female inmates.

The volunteer program provides volunteer attorneys to inmates, but does not handle actual litigation. They refer cases to other agencies and then monitor progress. Approximately half of the assistance this program

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offers takes the form of administrative help with problems related to disciplinary appeals, paroles, appeals, work release appeals and time computation. Twenty percent of the remaining cases have to do with assisting inmates filing pro se. Of the 2,900 requests for assistance they had received in the previous year, the staff estimated 300 came from women. The program services five institutions, and Institution B was listed as third in the volume of work generated. The volunteer program's $75,000 budget represents a 25% increase over its budget five years ago.

The legal services organization represented the women inmates at B in a class action suit three years ago concerning disciplinary proceedings. The program now maintains contact with inmates only in matters related to this particular suit. The inmates were successful in the suit, and a special master was appointed to oversee the prison's compliance with the court's permanent injunction. The legal services organization is still involved in the case. Further proceedings resulted in the superintendent at B being held in contempt of court. The suit affected all of the women incarcerated in the facility and provided them with a court-ordered settlement fund established for their benefit.

While there is no apparent intention on the part of the prison administration to discourage outside legal assistance programs from operating within the institution, there is also no apparent effort to facilitate their accessibility to the inmates and the inmates' accessibility to them. The programs operating at B seem to have more personal contact with their inmate clients than did programs operating at the other institutions studied. The result is that, while the legal service providers have access to their clients at the prison, the inmates are responsible, for the most part, for initial contact. The volunteer attorney program's signup sheet provides dependable and uncomplicated access to the program, and the bi-weekly visits build in personal contact between inmate clients and program representatives. This means that any inmate, regardless of her literacy level, can have the opportunity -- once she has established contact with the program -- to present her problem, ask questions, and get an understanding of her options for redress. And this can be done without the time constraints imposed by having only telephone contact with an attorney or legal assistance program representative. This program's high accessibility, coupled with its having a staff made up entirely of ex-inmates, has resulted in its greater visibility and credibility with the inmate population. The primary limitation found in this program's services had to do with its own restrictions on type of cases it can handle. If an inmate's concern cannot be resolved at an administrative level, but would result in litigation, the program can only refer her to an agency that could provide such representation.

The legal assistance programs with a wider range of inmate caseloads may prove difficult for an inmate to contact since they do not have regular visiting schedules and the initial contact has to be by mail or telephone. The restrictions placed on inmate calls make contacting an attorney by telephone extremely unlikely. Each inmate is allowed two five-minute calls per month, the hours designated after 6:30 p.m. If the party isn't reached one night, the inmate can try again on the next designated night. If the second call is also unsuccessful, that call is considered one of the two per month allowed. This procedure is strictly enforced, and permission to deviate from it requires highly extenuating circumstances, such as a death in the immediate family.

Institution B: Summary

The model of provision of legal services to inmates at Institution B is one that affords the women a variety of legal resources. The facility's directives and policies give more attention to the law library and its inmate clerks than to programs which operate from outside the institution. The result is that it appears the institution has placed more emphasis on provision of legal resources through a combination of law materials and internal personnel than through access to outside personnel and programs. While the facility's cooperation with the volunteer attorney project appears to contradict this philosophy, it is important to remember that 50% of the services the project provides are related to administrative negotiation. Therefore, the project's prohibition on litigation makes successful negotiation with either the institution's administration or the Department of Corrections its only vehicle for successful results. Further, it seems the volunteer program operates with less established "right" to access to clients than does a program staffed by full-time attorneys, necessitating a more cautious approach in dealing with prison and correctional systems officials. The program becomes, therefore, one that while providing outside personnel to handle a variety of inmate cases is, nonetheless, dependent upon internal resolution of complaints.

Therefore, while Institution B seems to have created an acceptable system of internal resources upon which it encourages inmates to rely, the weaknesses found throughout the system's operation can block its effectiveness. The end result is, quite simply, that the institution does not achieve on a consistent basis what it sets out to do: provide inmates with dependable access to the courts.

State Y: Institution C
Research Findings

Departmental Directives

The Department of Corrections' directives regarding access to the courts cover provision of law libraries, legal assistance, telephone access to legal personnel, and legal mail. These policies apply to Institution C for this research study.

The guidelines for prison law libraries state that each facility is to maintain a law library appropriate to the size and nature of the institution, with reasonable access to typewriters and typing materials, which are to be scheduled on an equitable basis for inmates. In addition to these state directives, there are also institutional policies relating to legal resources.

The state directives provide that ready access to free legal assistance is to be encouraged, either through the prisoners' legal assistance program, a law school program, the state NAACP, the ACLU or the office of the public defender. The provisions for attorney access to inmate clients specifically state that the inmates must give consent for an attorney visit and, further, that the inmate's attorney of record must submit written approval of such a visit to the warden, naming and identifying the attorney who will be visiting. Privacy issues during legal visits are also addressed. The directives state that whenever possible the institution must provide private interview rooms and that institutional staff members are to avoid being within hearing range of the legal interview. Also, bugging devices are prohibited.

When there is an issue of timeliness involved in an inmate's telephone access to an attorney or a legal representative, the chief executive officer or his designee may authorize such communication. In addition, the communication is to take place under conditions which ensure confidentiality, the guidelines state.

The Department of Corrections directives for legal mail state that incoming "privileged correspondence" (legal mail) may be opened only in the presence of the inmate addressee by the staff member designated to perform the task. While it may be inspected for contraband, such material cannot be read. If legal mail is accidentally opened, the envelope is to be immediately stapled, and the necessary inspection for contraband to be accomplished, again, only in the presence of the inmate addressee. Then, a form detailing the incident is to be completed and sent to both the institution superintendent and the department commissioner. Outgoing legal mail is to be treated the same way general correspondence is, the directives state -- the inmate seals the envelope,it is not subject to being read, but it may be inspected internally for contraband under the same conditions general correspondence is inspected.

Institutional Policies and Practices

Law Library

The institutional policies related to library use, effective July 1, 1981, set out procedures for both general population inmates and inmates in segregation. While the directives provide for adequate access to the law library, the practices in effect result in low accessibility.

The policy states that the library is to be open daily for inmate use, including evenings and holidays. However, the staff associated with the library indicated it was only open when the part-time librarian was there, which was usually twice a week. Since the law library is located in the general library, this significantly affects law library use. Prison regulations that specifically apply to law library services state that general population inmates should make arrangements with staff members to set up appointments with the librarian or a member of the education staff to use the law library material on microfilm. No mention is made in the guidelines of the materials available in bound volumes, but they do indicate that, due to the nature of the equipment involved, the number of inmates who may use the microfilm law library is limited to one. The policies also do not address law library materials use by inmates in segregation, aside from the general library section which state that a staff member will pick up lists of desired books from segregation and will also return books from segregation to the library. Since the law library is characterized by this directive as existing only on microfilm, an inmate aware of the policy or a staff member relying on it, would reasonably assume that use of the legal materials would not only be limited to a single inmate at a time, but also to inmates in the general prison population.

Prison C's law library is located in the school building and, as stated earlier, is housed in the general library. The room is large and contains equipment for a drafting class as well as microfilm equipment. Plans are being made to convert the entire law library to microfilm, but currently bound volumes are still available for some titles.

The library materials occupy less than half the shelf space available. The bound volumes of the state statutes were kept in a metal cabinet with a lock on it. While duplicates of those locked volumes were available on the shelves, the shelved set was incomplete and not completely updated. Other titles were available on microfilm only.

Overall, the availability of law library materials, both bound volumes and microfilm, was low. Out of 25 titles recommended for minimal legal materials, only six were provided. Three additional materials recommended were available so that a total of nine of the recommended titles were provided by the prison's law library. The basic general materials were the least available, with one title out of the suggested ten to twelve. Two of the six recommended federal materials were provided, and three of the five volumes suggested for state materials were provided, the most complete of the materials (see Figure 3).

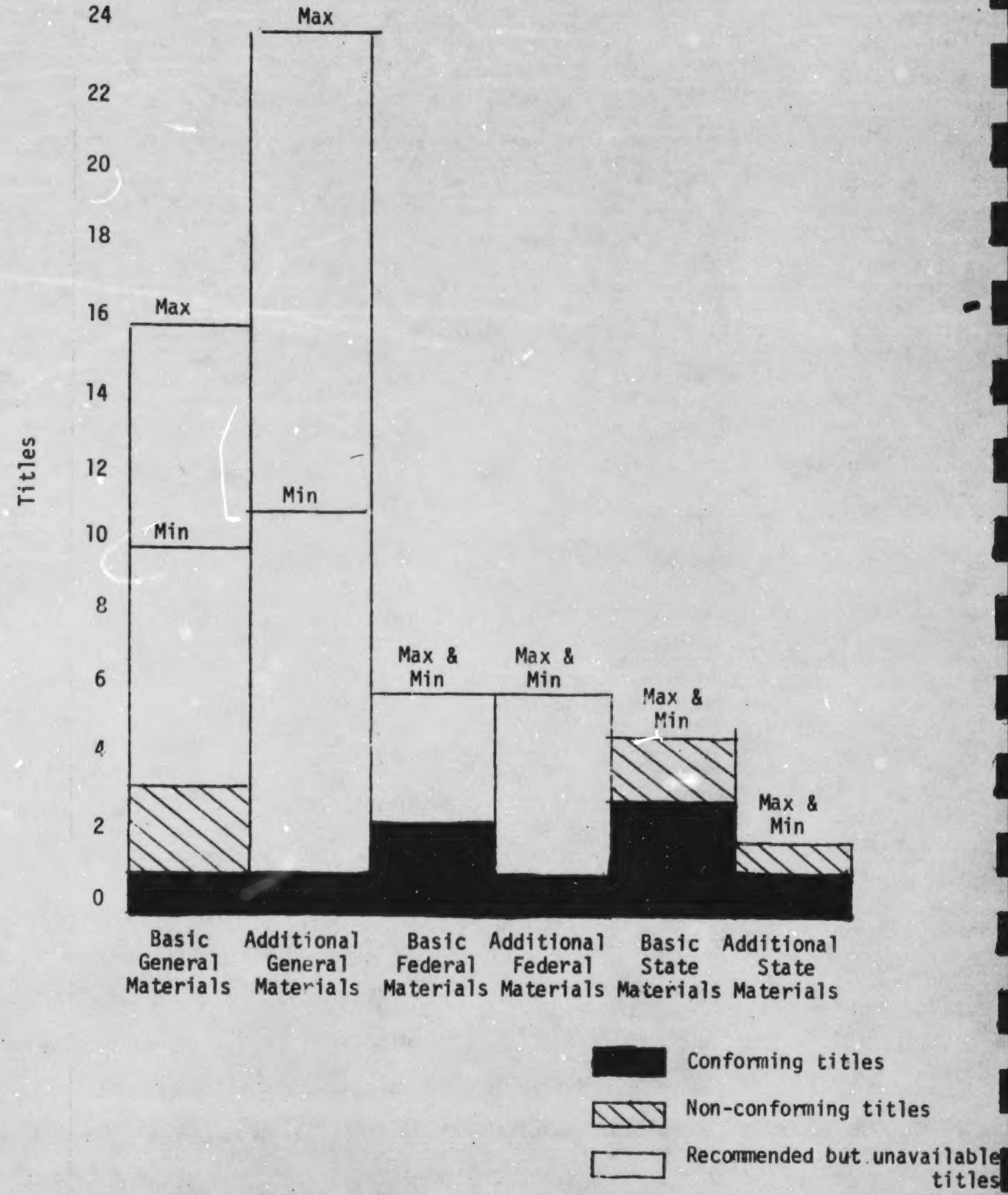
It is important to note the impact of the missing materials on the potential usefulness of the existing materials. Without the introductory materials, provision of the statutes and cases may be meaningless to inmates unfamiliar with the law and legal research. A large number of the titles provided are dependent upon availability of other materials for complete research. For example, the absence of Shepard's Citations makes it impossible to determine if a case has been overturned or modified. While this may be more important in a more sophisticated pleading than a pro se petition, it is still vital in enabling an individual to realistically assess her case. With that one volume missing, the law library is, therefore, rendered incomplete and unreliable. With virtually no introductory materials or research manuals, it would be extremely difficult, if not impossible, for an inmate to pursue her case or file pro se, even if the federal and state materials were adequate.

Several updates (or pocket parts) which were meant to replace laws that had changed were unavailable, and in some instances even when the updates were provided the outdated material was still being used to augment the replacements. At best, this would be a confusing system. Many books which were provided and which had been classified as legal materials turned out to be, on examination, merely old reports and outdated studies that were meaningless to any legal research. Books dating as far back as 1939 were shelved in the legal materials section. Aside from the obvious fact that such books offer no useable information, shelving them in a law library lacking other substantial legal and fundamental materials tempts the inmate to use outdated law and (due to the lack of Shepard's Citations) offers no way by which the reliability of the information can be determined.

Figure 3

Law Library Collection

Institution C



Additional materials which the institution provided, but which were not on the recommended AALL standards list were assessed according to the area of the law they addressed. Adding these titles into the "raw score" resulted in an overall score of 15 (number of titles available). (A large number of additional materials not scored were in the nature of law reviews, scholarly treatises covering the law in highly specialized areas. The provision of such articles is questionable, since the foundation for using highly technical legal materials was not established through other resources.)

There were no bilingual materials available, nor were there prisoner publications such as Prison Law Monitor. Also missing was a copy of the state regulations relative to welfare or child custody issues.

As far as support equipment is concerned, according to the law librarian, the typewriter is always available to women doing legal work. Duplication is done by the law librarian in the same building as the law library is housed. The cost is 10 cents per copy after the first 10 pages. The librarian indicated that duplication is discouraged whenever possible, since it is costly and also requires that the librarian leave the library.

Inmates are allowed two free letters per week if they have less than $5 in their institutional account, according to the policies articulated in the Department of Corrections directives. Court mail may, upon request, be paid for by the department. This does not apply to letters addressed to lawyers, only those going to judges and the courts. The law librarian stated that only free mail available was two letters allowed for indigent inmates upon arrival.

The law librarian was unsure as to the availability of notary publics, but knew that there were notaries at the institution. Supplies (staplers, paper clips, etc.) were also unavailable at the law library. It was necessary for women to either be escorted to the law library or have a staff member from the location she was leaving phone ahead to tell the librarian to expect the inmate within a reasonable time from her departure. Those in segregated housing needed to be escorted by a staff member to the library and supervised while there, then escorted back, or request that materials be brought to them by the staff. Since this procedure resulted in removing a staff member from circulation for the amount of time the inmate used the library, staff shortages would have an impact on the availability of the library to segregated women.

Material Resources: Summary

The materials available to women incarcerated at Institution C were lacking in introductory materials. The case law and statutory law materials (primary sources) were in the moderate range, while introductory and comprehensive materials and aids (secondary sources) were low. The materials that were provided were, for the most part, on microfilm, with the exception of the state statutes. This meant that only one inmate at a time could use the material, and it also presented serious duplication difficulties. Further difficulties arose around access to the law library itself, since its hours were determined by the availability of a part-time librarian. Institutional policies state that the library is open daily including evenings and holidays, but, in fact, it was only open when the librarian was there -- about twice a week. This created two problems.

First, the limitations imposed by the number of hours the library could actually be open resulted in legal materials being available to inmates less than 35 hours per week. Then, the inconsistency of the library hours and their unpredictability resulted in few inmates knowing about and planning for law library use. (One inmate interviewed in the random sample was responsible for cleaning the library, and she was unable to tell the interviewer what the library hours were. She was completely unaware of the legal materials section of the library.

Legal Personnel

The internal legal personnel at Institution C were a limited resource for the women incarcerated there. No inmates were identified as functioning as jailhouse lawyers, although both staff and inmates mentioned two inmates who were very "knowledgeable" and who came closest to meeting the definition of jailhouse lawyer. Further inquiries disclosed, however, that these women did not assist other inmates in using the law library or in preparing legal documents, and they did not use the law library themselves. In reality, then, the only person available to assist women in using the law library was the part-time staff librarian, and she did not view herself as having an active role in helping with inmates' legal problems. She was trained in library science with a specialty in medical literature, but has worked in prison libraries for three years. The librarian was aware of the ombudsman provided by the Department of Corrections, as well as of the public defender's office, but she did not know the kind of work they did or the types of assistance offered inmates.

According to the law librarian, the only concern she had heard the women express was related to a change in the law regarding sentencing, and she was attempting to arrange for an attorney to come into the prison and address the topic for the benefit of the inmates. Overall, she felt the women themselves were the key to improvement of legal services at C, and that a demonstration of increased interest on their part was an essential factor to any change. While she believed inmates' illiteracy was a problem, she also thought they were generally less willing to question, less motivated, and less serious in their pursuit of the law than men. This was especially true, she indicated, when they were faced with legal documentation, with which most were unfamiliar. She said the quantity appeared to overwhelm them, and they gave up.

External legal personnel in State Y included those in the state-funded Prisoners' Legal Assistance Program, the American Civil Liberties Union, two law school programs and the inhouse ombudsman program. By and large, the inmates' legal concerns were addressed by the state Prisoners' Legal Assistance Program and the quasi-legal services of the ombudsman.

The ACLU cited the low number of requests for help it had received and the distance to the women's prison for its not being more involved. Neither law school responded to the mail questionnaire, but it appeared that one was assisting two women with legal concerns and had regular contact with male inmates at two facilities. The other law school provided legal services to men in prison, but had discontinued services to women.

The Prisoners' Legal Assistance organization, funded by the Department of Corrections, was the primary source of external legal personnel provided to the women incarcerated at C. The program, with a budget of $130,000 for the previous year, is funded to provide services to all inmates in State Y's ten institutions with its staff of four full-time attorneys and two paralegals. Institution C ranked seventh in volume of business of the ten institutions for the preceding year, and the staff estimated that about 120 of the 2300 requests for assistance came from female inmates.

Roughly thirty percent of the assistance the program gave inmates statewide involved representation of inmates, and another thirty percent entailed some form of investigation. The remainder of cases involved equal amounts of negotiation, administrative assistance, referrals, advice and information,

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and assistance with forms.

The organization was restricted, by the state, to representing inmates in non-criminal matters other than habeas corpus. It had handled ten class action suits on behalf of prisoners over the preceding five years, three of these initiated by female inmates. The suits covered a variety of issues -- over-crowding, time computation, and voting rights -- and resulted in eight favorable rulings. An agreement between the program and the state Attorney General's Office resulted in the organization not pursuing many potential class actions related to time computation, since prevailing in one case would allow for applying for all inmates affected.

The ombudsman program, like the previous program, is funded by the state, and provides quasi-legal services to all state prisoners by serving as the independent grievance mechanism for the ten prisons. Its services are limited to investigating complaints and making recommendations to the Department of Corrections. Therefore, the issues the program addresses are confined to inmate complaints about acts, omissions, decisions or recommendations of the department. It offered information and advice to inmates in 10% of the cases it handled and referred inmates to other sources of legal assistance in another 12%. The majority of complaints the ombudsman dealt with, about 75%, were investigated at the request of the inmates.

Personnel Resources: Summary

The model adopted for providing legal services to prisoners in State Y (Institution C) appears to favor legal personnel over legal materials as resources. The Department of Corrections contracts with a prisoners' rights project for their services, as well as with an independent organization to provide personnel to address inmate grievances. The department has also issued directives aimed at formalizing access to personnel. The legal needs of inmates, therefore, can be addressed in one of these two ways, either through contact with the grievance personnel or with attorneys.

The burden of legal redress falls, then, upon the ombudsman and the prisoners' rights attorneys, making provision of legal resources almost completely dependent upon the effectiveness of the two contracted programs and their personnel. Access to these resources is essential for inmates with legal needs, and while policies and practices in both the department and prison were geared to facilitating access, some difficulties were noted.

Problems with telephone access were resolved shortly before the research team visited Institution C. Pay phones that allowed only for collect and third-party payment calls had been installed and were available upon request. If the individual being called has indicated a willingness to accept collect calls, the inmate can call during working hours. Telephone access was by far the most liberal of the four institutions studied, and access to the institution by the contracted attorneys was consistently allowed.

Regular visits and internal communications existed for both the legal assistance program and the staff ombudsman. An inmate wishing to contact either needs only leave a note in a mailbox located in the prison requesting an appointment.

Unfortunately, the awareness among inmates as to the availability of personnel in either program was limited. Most of the women indicated they had heard of the ombudsman, but few had contacted the ombudsman's office about a grievance. The majority of the inmates were unaware that the prisoners' rights project was a legitimate legal resource. Some inmates knew of a female lawyer who had done work for women at C, but they felt that her departure signalled the end of any services of that kind.

The attorney position assigned to C from the prisoners' rights project had not been filled following the woman attorney's departure, and the workload left had been assumed by the project director. Most of the inmates reported they were unaware that they could ask the program for legal assistance. Those who did know of the project's existence expressed concern about its strong connections to the Department of Corrections and doubted it had the autonomy needed to represent an inmate in a case against the department. The program, then, was either unknown, misunderstood or viewed with suspicion by women inmates, and, therefore, they did not utilize it.

Most of the inmates did not understand that the ombudsman was acting as a grievance mechanism, but rather viewed as a Department of Corrections troubleshooter who showed up when there was a problem. The inmates expressed the view that the ombudsman was merely a pacifier who ultimately did whatever the administration recommended.

When the superintendent was asked about directing women with legal concerns to attorneys and legal assistance programs, she replied that she was not in the business of advertising for lawyers. The programs, she said, are there if women want to find out about them and make use of them.

State Z: Institution D
Research Findings

The guidelines promulgated by the Department of Corrections were contained in the Community Correctional Centers Resident Guidebook. The formalized institutional practices were found in the Women's Unit Rules and Regulations.

Departmental Directives

No specific departmental directives regarding the provision of legal resources to inmates in Institution D are available. The areas that are specifically mentioned by the available rules and regulations are contained below and apply mostly to issues of access to legal personnel. However, specifically noted is the provision of public defenders for indigent inmates. Inmates are made aware of their right to a court appointed public defender, instructed to advise the Judge of the request, and provided with telephone numbers for public defenders. Inmates with problems during incarceration which relate to appeals, or conditions of confinement are advised to request assistance from the Correctional Defenders Office and given the telephone number.

No law library materials are mentioned in the guidebook. The guidebook notes under the Educational Services section that a small library is available for browsing during specified hours each week. Any further questions should be directed to the educational coordinator. Rules and regulations pertaining to telephone access, mail and visiting are listed in the Civil Rights and Opportunity section and are as follows:

Incoming mail is to be opened in the presence of the inmate. Outgoing mail is to be sealed and given to a staff member for mailing. The Department furnishes stationery, envelopes and postage for up to seven letters per week free of charge. A record is kept of all mail transactions made by an inmate.

Visits from attorneys and others "in official positions" are permitted at times other than normal visiting hours subject to institutional requirements. "Reasonable provisions for privacy" during attorney visits are to be made, but nothing further is specified.

Regulations related to telephone use state that an inmate "will be provided reasonable opportunities to contact (her/his) attorney," and that attorney (and other official) calls may be received at all reasonable times. All toll calls must be made collect.

Institutional Guidelines and Practices

Institutional Guidelines that apply specifically to the women's unit of Prison D are listed below.

Listed as one of inmates' basic rights is access to incoming lawyer calls, and one outgoing attorney call between 8:00 a.m. and 4:00 p.m. Segregation inmates are allowed one lawyer call during their one hour recreation time, if such a call is needed. No visits are allowed to segregation inmates. An inmate in maximum security, "who goes to court or out to see a lawyer" will have this time subtracted from her recreation time. The regulations listing personal property allowed in a room specifically include any legal materials.

No specific provisions for attorney visits or privileged correspondence are listed.

Legal Materials

The legal materials available to women at Institution D were shared with men also incarcerated there. The materials were located in a locked closet in the institution's library, one which could be unlocked upon request. The law library consisted of a collection of state statutes, a law dictionary, and two general law advisors, such as Readers' Digest volume, You and the Law. Only the institution's program planner and the librarian had seen the books, and the inmates interviewed were not even aware of the existence of a law library (see Figure 3).

While duplicating equipment and typewriter access are not governed by any formalized policies -- either institutional or state -- there appeared to be no difficulty in using either. Duplication of legal materials was done without charge to the inmates, and, since all supervisors at the facility are notaries, a notary public was always available.

The legal materials provided at the institution were grossly inadequate. The minimal number of titles and their location in a locked closet rendered legal assistance through materials a virtual impossibility for inmates. The existence of and accessibility to all necessary support equipment and services was of no benefit in enhancing legal resources, since what was to be supported was practically non-existent.

Legal Personnel

The Department of Corrections' position was that provision of legal resources to inmates is the responsibility of the Defender General's Office, and, therefore, legal materials fell in that domain rather than the Department of Corrections. Legal personnel available to Prison D inmates through the Defender General's Office consisted of one public defender and one correctional defender. Since neither of these programs responded to the questionnaire sent to them, no information about programs or services is available directly from them.

The public defender's office represents indigent defendants prior to conviction, and so the program does not come within the scope of this research.

The correctional defender's office represents inmates on issues which concern or arise after their incarceration, including appeals. A representative from this office visits the institution once a week, but the extent of work done for women and the types of cases most often handled are not known.

Four private firms which had done prison related work responded to the questionnaires sent. Three of the respondents estimated that prisoner-related work comprised less than 25% of their case load. The highest number of requests from inmates was 5-10 with 1-3 coming from women. This firm estimated that 25-50% of its work was prisoner related. No difficulties with communication were generally sited, except that one firm found the interview rooms inadequate and another did not "trust the phones."

Institution D: Summary

The system for providing legal resources to prisoners in Institution D relies heavily on the personnel provided by the State. The funding for legal resources to prisoners is not offered by the department of corrections, so the legal resources seem to operate independently of the department. The access that is allowed by the department appears to encourage the use of these legal personnel, so it appears that the weakness that can impede access are not a problem in this system. Without a response from the service providers it is impossible to know whether the institutional policies in effect are translated into meaningful access to adequate legal assistance.

The provision of legal materials is also left in the hands of an agency independent of the department of corrections. This has not resulted in enhanced legal materials and has in fact, left no other avenues but external personnel. The overall picture that emerges with respect to legal resources is one completely dependent upon external resources with the correctional system facilitating access through its own policies. Legal resources are not attended by the correctional system, but rely upon those provided by a different state agency, with virtually no opportunity for self-help.

Summary & Conclusions

The provision of legal resources to women in the four institutions studied reveals a pattern common to all, wherein structural weaknesses in all schemes operating to provide legal resources prevent meaningful use of materials and personnel. The first level of any system designed to provide legal resources to women s the actual existence of the resources, either personnel or materials. The assessment of the materials reveals inadequacies, though at varying levels, for all institutions. None of the women's facilities had adequate legal materials for a meaningful legal collection. The

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flaws within the provision of materials are structurally similar to the flaws that pervade the entire picture of legal resources to women. Where there were adequate materials in one area, the supporting materials necessary to their meaningful use were absent. Where the extent of materials offered was at least consistent for all areas to be addressed, they were consistently so inadequate as to be useless for any valuable legal assistance. The best introductory materials were in the law libraries that had virtually no materials that could be used beyond the introductory stage. In the law libraries that had nearly adequate collections of sophisticated materials, limited introductory materials were available. The result is that even when an area had enough materials to be useful, the lack of materials necessary to support the use of those that were adequate rendered the existing materials useless.

Viewing the law libraries individually, without comparing them to any standards, in terms of how the materials offered could be best utilized, further confirms the structural weaknesses. Theoretically an inmate could use the materials provided at one of the institutions in order to pursue her own legal case. However, the support equipment necessary for a number of court documents was unavailable. Where there were enough books, albeit an inadequate collection, to provide the atypical inmate with a foundation for pursuing a case, there was no notary. Where there were notaries there were severely inadequate collections.

The general pattern of provision of legal materials is replicated throughout the systems operating to provide legal resources. Where there was legal personnel available, there were difficulties in contacting them. Where there were no difficulties in contacting them, the inmates were not being made aware of their existence. If the inmates could contact them and were aware of the programs, the services offered were limited to administrative remedies. The factors that contribute to a valuable, viable legal assistance model were deficient in one way or another in every program so that what was positive in one was thwarted by the negative ones in the same program. If that factor was positively functioning in another program, a different, debilitating factor was present.

The same distinctive characteristics of women's prisons generally affect the provision of legal resources in women's prisons. The lack of standardized procedures and definitive policies, common to women's prisons, is reflected in the access to legal resources. The procedures to gain access are often unpredictable and usually informal. Where formalized written policies exist and procedures have been promulgated, the adherence to these formalized guidelines is arbitrarily exercised in practice. The result is that a woman cannot depend upon the procedures that would provide her with the necessary materials or access to equipment. She must rely upon the results when she gets them, rather than on the process to provide her with the results.

The dilemma presented to a woman attempting to pursue legal channels is the same that she encounters elsewhere in the system: she needs to maintain a working relationship with others in order to insure that she will be provided access to various and numerable elements necessary in every step along the way to the courthouse, so that to alienate a component of the system by assuming an aggressive posture is counterproductive to her goals. Yet she stands the risk of never achieving those goals without either insisting on her needs or relying upon the good will of those who can assist her. The multitude of obstacles that face her require a motivation that can withstand repeated frustration, have extensive endurance, and allows assertive insistance short of aggression. Coupled with the lack of support from other legally

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active inmates facing the same situation, the likelihood of legal activity spontaneously arising out of this void in response to a problem, is indeed limited. The cycle that perpetuates the lack of resources includes the lack of use or indication of interest in use. This is in turn fed by the lack of resources and indication of interest by administration, staff and legal assistance programs themselves. Already overburdened by the enormity of its responsibilities, constraints, and inadequacies with respect to male prisoners, the correctional system hardly has the resources or compelling reasons to address the same issues (and the additional ones) for women. Thus the strain of the burdens on the correctional and legal systems is felt most acutely by women.

CHAPTER SIX

AVAILABILITY & UTILIZATION OF LEGAL RESOURCES

Introduction & Overview

One of the major goals of the project was to examine and understand the relationship between availability of legal resources and their use. One of the hypotheses leading to our choice of a systems approach was that provision of resources by the system directly affects the use of those resources, i.e., where resources are limited, use will be low and vice versa.

In assessing availability of resources within an institution, we examined the following factors:

- quality of resources provided;
- attitudes of both state and prison administrators towards provision of resources as well as towards litigation in general;
- amount of funding for both legal materials and personnel;
- and the degree of accessibility inmates have to the resources.

Since utilization is related not only to the availability of resources, but also to internal dynamics within the individual prisons, we probed various characteristics both of the inmate population and the different prisons. The inmate characteristics included a general demographic profile of the inmate population within the prison, criminal histories of the inmates, the level of sophistication and knowledge inmates have about legal rights and institutional policies, and their motivation for legal activity. The institutional factors considered covered attitudes and policies that could either encourage or deter use of resources and the locations, size and security status of the prison.

In attempting to answer our primary research question -- why are women less litigious than their male counterparts? -- we used a two-prong approach. First, we examined the legal resources at each facility and administrators' attitudes towards provision of resources and inmate litigation. The evaluation of resources within each institution has been detailed extensively in Chapter Five. The second part of our approach was the development of a measure of resource utilization, which we then used as an index of inmates' legal activism - that is, we defined legal activism as covering not only actions using the courts, but any utilization of resources in the pursuit of legal needs.

Inmates who demonstrated a high level of legal activism, using this definition, were compared to the rest of the inmate sample in terms of demographics, criminal histories and a category we labelled "sophistication." Trends that surfaced among those categorized high level activists helped us draw some conclusions about utilization of legal resources. We examined institutional factors to see if we could understand why one institution or one state appeared to have a larger clustering of legal activists than another.

To answer our basic research question, we sought the answer to the following subsidiary questions based on the fact that despite an overall lack of litigiousness, some women are legally active. This led us to ask:

- Why are some women more legally active than others?
- How does availability of resources affect activism?
- How, in turn, does activism or a lack of it affect availability of resources?
- In what ways do individual institutions encourage or discourage activism?
- What specific characteristics among the inmate sample affect activism?

Methodology

Resource Utilization: Legal Activism Index

Our initial step was to identify inmates who utilized legal resources, i.e., who were legally active. This proved to be a major challenge. At first, we used a "snowball" technique where inmates interviewed identified other inmates considered legally active by their peers. The researchers then interviewed these women who, in turn, identified other legally actives.

There were a number of problems with this approach. Some institutions had many inmates who were identified as being legally active, but who did not, in fact, engage in any notable resource utilization. There were also inmates who were "active," that is, they used the law library, filed grievances, etc., but since they were not filing suits were not identified as being legally active by their peers. The research team did not want to set up use of the courts as the ideal utilization of legal resources, so equal weight had to be given to inmates using both internal and external mechanisms to resolve issues. Finally, we recognized that evaluations of inmates' legal activism were entirely subjective in the "snowball" technique.

Abandoning the results of that method, we decided on a new approach and developed a legal activity index. Each inmate was given a score according to the degree to which she utilized resources. The following questions were considered in computing the score:

1. Had the inmate needed an attorney and tried to get one?
2. Had the inmate tried and succeeded at getting an attorney?
3. Had the inmate used the law library?
4. Had the inmate ever asked another inmate for legal advice?
5. Had the inmate used the institutional grievance procedure?
6. Had the inmate ever written the judge who sentenced her?

7. Had the inmate ever written anyone else concerning her case or another issue, (e.g., had she written the corrections commissioner or a politician)?

Each of the above questions was seen as a key indicator of potential activism,* and a "yes" response to any one of them gave the inmate one point on our legal activism index. The single exception to this was question three, since we felt utilization of the law library was the most telling variable in the index. Therefore, we assigned two points to an affirmative response to that question. The highest score possible on the index, indicating the highest level of legal activism, then, was eight points.

Using this index as a gauge, we found that inmate activism followed a bell-shaped curve, with a mean of 3.12, standard deviation of 2.01, a mode of 3.0, a minimum score of 0, and a maximum of 8.0. Few inmates actively pursue claims or grievances, either within an institution or outside, few are extremely inactive, and the bulk of the inmate sample falls somewhere between the two extremes of inactivity and activity. We foresaw problems in dividing the sample into two groups, with all those scoring above the mean considered legally active and those falling below the mean considered "inactive." Real differences between the clearly active and the rest would be obscured by this method. Instead, we defined the "legally actives" as all inmates whose activism score was more than one standard deviation above the mean, i.e., above 5.13. Other inmates were considered active to a low-medium extent, rather than "inactive." In subsequent discussions we will use this terminology, i.e., we will distinguish between "legally actives" and "low-mediums."

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*We considered adding another indicator: whether or not the inmate had appealed her case. However, since the majority of inmates' cases ended in plea bargains, we did not feel this factor would be a fair indicator.

The distribution of points among the legally actives was:

Score	Number of inmates	% of sample
6	10	9.2
7	4	3.7
8	1	0.9
Mean: 6.4	Total: 15	Total %: 13.8

On the basis of this legal activity index, we found our concern about the validity of the "snowball" technique of identifying legally active inmates to have been justified. Of the fifteen inmates meeting the criteria for being legally active, only four had been identified as being legally active using the "snowball" method.

Resource Availability

In keeping with the overall systemic approach of the project, we used a wide range of information sources in assessing quality and availability of legal resources and administrative attitudes towards their provision. First and most importantly we used the information presented in Chapter 5. This was combined with interviews of state commissioners and prison superintendents, and the inmates' own assessment of the resources provided. The variety of information sources helped us maintain the systems perspective, and we were able to better understand disparities we found in the level of legal activity from prison to prison.

Legally Active Inmates: Characteristics

Our initial questions about the lack of women's suits probed whether female inmates had legal needs and resources with which to meet them. We learned that needs clearly exist and that resources are unevenly provided. Now we ask what characteristics distinguish those inmates who utilize available resources from those who don't.

- Do legally active inmates have more pressing needs and concerns than inmates who show only low or medium levels of activity?
- Do legally active inmates differ from their less active sisters in demographic characteristics, criminal history, legal sophistication, and level of motivation?
- Is there a relationship between clustering of legally active inmates by institution and the resources available within those institutions?

Legal Activists' Needs

Before discussing personal characteristics of legal activists, it is important to state that we found little difference between what legally actives and low-mediums identified as important legal needs. Both groups identified jail credit/good time, child custody, and programs as their leading concerns, and, so, a difference in type of legal need is not a likely factor in determining activism.

Demographic Characteristics

Six demographic characteristics were examined -- ethnic group, level of education, marital status, parental status (i.e., did the inmate have children?), job and support source on the outside, and inmate age.

Ethnicity played a minor role in the rating levels of legal activism. In the display below, it is clear that both blacks and whites were almost equally represented among legal activists and low-mediums. There did, however, appear to be a larger number of Hispanic women among the legal actives than among low-mediums.

	Low-Mediums	Legal Activists
Black	45.7%	40.0%
White	42.6%	40.0%
Hispanic	11.7%	20.0%

Education, on the other hand, can be a significant determinant in predicting legal activism. Legally active inmates in the sample are substantially better educated than low or medium level active inmates. The distribution is as follows:

Level of Education	Low-Mediums	Activists	Total Sample
Less than 12th grade	62.4%	33.4%	58.4%
High school graduate	26.9%	33.3%	27.8%
Above high school	10.8%	33.3%	13.8%

It is statistically significant at a 0.05 level that two-thirds of the legally active inmates had a high school education or better, while only two-fifths of the overall sample had an equivalent level of education.

Legal activists, in general, either were married at the time of the study or had been. Of the total sample, 63% were single and never married, while only 46.7% of the legally actives fell into this category. Twenty percent of the legally actives were still married, but only 12.9% of the low-mediums were.

Only 61.5% of the total sample had children, yet 73.3% of the legal activists were mothers. For this computation, we considered only minor children, since the question is probing whether concern over a child's welfare might influence activism. Children of majority age, we assumed, would be independent.

Legally active inmates tended to have had full-time work prior to incarceration. Of the entire sample, 54.1% had worked full-time on the outside, but 86.7% of those identified as being legally active had held full-time jobs. The top three categories of job type for legal activists were: clerical, 33.3%; factory, 20.0%; teaching, 13.3%. Top categories for low-mediums were: clerical, 14.9%; waitress, 12.8%; factory, 11.7%.

Inmate age was not a significant variable in determining legal activism. Mean ages for both activists and low-mediums were in the late twenties.

Demographic Characteristics: Conclusions

It is apparent from the comparisons of demographic characteristics that certain factors emerge as important vis a vis resource utilization. Since most legal activists have held full-time jobs, many of them in professional and semi-professional positions, we can assume they have a certain level of sophistication. Being economically self-sufficient, if not independent, endows one with a greater sense of power and control. In addition, familiarity with the working world necessitates adaptability and knowledge of how to function within an hierarchy. These factors could well translate into higher levels of confidence, motivation and self-esteem among legally active inmates. The group's higher educational level also adds to their sophistication, as well as giving greater ease in navigating legal channels and dealing with legal personnel. An inmate's ability to prepare, process and follow through on document submission would be greatly enhanced by a good education, as would the ability to express oneself and one's needs with clarity.

Since many of the legally active inmates are married, we hypothesize they may be getting emotional support from their spouses. This could increase their own emotional stability and make it easier for them to grasp and confront their concerns in prison. The fact that many of them have children takes on greater significance when we see that 81.8% of the legally actives' children were living with them prior to their incarceration. The figure for the total sample is 67.2%. Custody issues, then, may play a more central role for legal activists concerned with ways to retain and protect legal custody of their children.

Criminal History

To look at inmates' criminal histories, we examined six aspects of their criminal records: most recent offense type, number of previous convictions, number of previous incarcerations, length of overall stay,* time left until parole eligibility, and time served thus far. These findings are presented in Tables 9 and 10.

Our findings show that most of the women classified as being legal activists are serving time for having committed violent crimes, and that most of them have no previous criminal records and have had little interaction with the criminal justice system. They tend to be serving substantially longer sentences than their low-medium counterparts and have a longer period of time until they are eligible for parole. We found that the amount of time an inmate has served of her sentence significantly affects her level of legal activism. All of the legally actives had been in prison for at least seven months, and while little more than one-third of the low-mediums had served over one year of their sentences, more than three-fourths of the legal activists had. Thus, the low-mediums not only had shorter sentences to begin with, they were also new-comers to the institutions.

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*The stay variable was computed by taking the time already served and adding it to time until eligibility for parole, to get the amount of time an inmate can expect to stay in prison if she is paroled "on time."

Table 9

Criminal History of Inmates By Level of Legal Activism

	Low-Mediums N=94	Legally Actives N=15	Total Sample N=109*
NUMBER OF PREVIOUS CONVICTIONS:			
None	25.6%	50%	28.8%
One - Three	38.9%	28.6%	37.5%
Four or More	35.6%	21.4%	33.7%
NUMBER OF PREVIOUS INCARCERATIONS:			
None	41.5%	66.0%	45.0%
One - Three	42.6%	20.0%	39.5%
Four or More	15.9%	13.3%	15.6%

*Sample sizes vary slightly in subsequent tables as a function of missing data.

Table 10

Characteristics of Current Incarceration of Inmates By Level of Legal Activism

	Low-Mediums N=94	Legal Actives N=15	Total Sample N=109
CURRENT OFFENSE TYPE:			
Property	56.0%	33.3%	52.8%
Violence	25.3	53.3	29.2
Behavior	3.3	--	2.8
Drug-Related	15.4	13.3	15.1
CURRENT ESTIMATED PRISON STAY:			
Less than 1 yr.	38.3%	--	33.0%
One - Two yrs,	17.0	26.7%	18.3
Three - Five yrs.	33.0	33.3	33.0
Over Five yrs.	11.7	40.0	15.6
TIME SERVED THUS FAR:			
0 - 6 mos.	42.6%	--	36.7%
7 - 11 mos.	23.4	20.0%	22.9
One - Two yrs.	22.3	40.0	24.8
Over Two yrs.	11.7	40.0	15.6
TIME UNTIL PAROLE ELIGIBILITY DATE:			
0 - 11 mos.	62.6%	46.7%	60.4%
One - Two yrs.	23.1	13.3	21.7
Over Two yrs.	14.3	40.0	17.9

Criminal History: Conclusion

The criminal histories of women in prison seem to directly affect the level of their activism. It is interesting that so few of the legally active inmates had previous records or incarcerations. The implication appears to be that legal activists come into the institutions unaccustomed to strict rules and regulations, that they are not career criminals and that they are going to fight for the rights they expect to have on the inside. This is magnified by the fact that they have committed violent crimes and are facing long sentences, so any action to either challenge their incarceration or the conditions of their confinement could either reduce sentence length or at least make the time to be served more bearable.

Of further interest is the finding that inmates are not likely to become active during two important periods of their incarceration -- when they first enter the institution or as their parole eligibility date nears. The former seems to indicate that it takes a few months before inmates adjust to the system and learn what mechanisms are available to raise issues and express concerns. The latter could be due to fear of administrative reprisal -- if I act up or get out of line, will I lose parole eligibility?

Sophistication and Attitudes About the Legal Process

In determining the level of sophistication and knowledge of inmates, we considered the following factors: type of attorney used and inmate's opinion of that attorney; knowledge of litigation, inmate rights and issues related to resources; and attitudes about institutional life. The distributions of these variables are presented in Table 11.

On the whole, we found that legally active inmates were represented by private attorneys. This could reflect their histories as working women who could afford private counsel. Even though legal activists used private

Table 11

Inmates' Sophistication & Attitudes About the Legal Process

	Low-Mediums	Legally Actives	Total Sample
TYPE OF ATTORNEY:			
Private Attorney	36.6%	60.0%	39.8%
Public Defender/ Court Appointed	62.4	40.0	59.2
Other/Unknown	1.1	--	0.9
CONFIDENCE IN ATTORNEY:			
Great Deal	28.3%	20.0%	27.1%
Some	34.8	26.7	33.6
Little	6.5	13.3	7.5
None	29.3	40.0	30.8
Other/Unknown	1.1	--	0.9
BELIEVE ATTORNEY DID EVERYTHING POSSIBLE:			
Yes	43.0%	33.3%	41.7%
No	54.8	66.7	56.5
Other/Unknown	2.2	--	1.8
RATE ATTORNEY:			
Very Poor	30.4%	53.3%	33.6%
Poor	16.3	13.3	15.9
Fair	12.0	13.3	12.1
Good	32.6	13.3	29.9
Very Good	8.7	6.7	8.4

(Table 11 continued on next page.)

Table 11 (Continued)

Inmates' Sophistication & Attitudes About the Legal Process

	Low-Mediums	Legally Actives	Total Sample
BELIEVE WOMEN GET SAME JOBS OPPORTUNITIES IN PRISON AS MEN:			
Yes	18.1%	20.0%	18.3%
No	54.3	73.3	56.9
Don't Know	27.7	6.7	24.8
BELIEVE WOMEN GIVEN HARD TIME FOR TRYING TO FIND OUT ABOUT, DOING SOMETHING RE: LEGAL RIGHTS			
Yes, directly	24.7%	50.0%	28.0%
Yes, indirectly	49.5	35.7	47.7
No	10.8	14.3	11.2
Don't know	15.1	0	13.1

attorneys -- which could be assumed to be the "best" legal option -- they tended to express less confidence in their attorneys. Two-thirds of the activists felt their attorneys had not done everything possible in their cases, but only about half of the low-mediums indicated such discontent. Furthermore, more legally active inmates rated their attorneys' overall as poor and very poor than did the low-medium inmates.

Almost all of the inmates interviewed knew what their rights were regarding use of the law library and uncensored attorney correspondence, but only half of the low-mediums knew of inmate litigation while well over three-fourths of the legal activists knew of such cases. As one would expect, legally active inmates were aware of institutional resources and their availability to inmates. They were also well aware of external resources and often cited specific prisoners' rights groups they felt they could contact if necessary. The low-mediums, on the other hand, were very uncertain as to how to get an attorney if they needed one and what the rules were that governed accessibility to legal resources in general -- including what hours the law library was open.

Legally active women indicated more awareness of attitudes of sexism within their specific institutions and within the state corrections systems. Three-quarters of the legal activists expressed dissatisfaction with inequities they experienced in assignment of prison jobs -- men, they felt, get better jobs -- but only half of the low-mediums stated such feelings. Also, more legal activists said they believe inmates who try to find out or do something about their rights are given a hard time by institutional personnel. Half see the administration as directly trying to influence their activism.

Sophistication and Attitudes: Conclusions

The research implies that legally active inmates go into prison with a clear sense of what their rights are. Their dissatisfaction with their attorneys may well be related to their knowing more about possible legal options than their low-medium counterparts who put blind faith in their counsel.

Once legally active inmates are in prison, they do not curtail their concern about their legal rights. In fact, we found that, even though legal activists are relatively new to the corrections system, once embroiled in it, they make an effort to find out what their rights are and what resources are available to them. The legal activists appear to be more aware in general, expressing concern about what they consider to be overt acts of sexism that low-mediums either do not see or do not find to be disturbing enough to mention.

It is noteworthy that the legally actives believe institutional personnel give them a direct hard time when they seek information on their legal rights or redress when they feel their rights are being violated. The inmates feel the institutional administrations harrass them for their activism, and it may be that more active inmates are treated discriminatorily. It could also be the case that legally active inmates "act out" more than less active ones. Since half of the legal activists have spent time in either a maximum unit or solitary confinement, one might conjecture that a relationship exists between legal activism and such confinement. However, confinement to a maximum or segregation unit may result from a behavioral sanction, or from a "direct hard time," so it is impossible to state unequivocally the nature of the relationship between activism and maximum or segregation confinement. Much of the literature claims that in male prisons solitary confinement and maximum security have been used to limit activism.

Extent of Motivation

This section probes the degree of motivation among legally active inmates, as indicated by a number of behavioral indices: was the inmate taking any classes in prison, had she asked another inmate for advice, had she appealed her sentence, and if she had been in maximum or security confinement had she sought legal assistance. We also looked at how legal activists perceive other inmates' levels of motivation. To do this, we examined questions related to other inmates' concerns over legal rights, perceptions of their willingness to take legal action and their readiness to obey rules.

Results of these analyses indicate legally active inmates are much more likely to be enrolled in classes, which we determined to be an indicator of extra effort within the institutional setting. This could also be due, in part, to the longer sentences that the legal activists are serving.

All of the legally actives had either asked another inmate for advice or had given advice to another inmate upon request. Only about half the low-mediums had asked for advice. We found it statistically significant that almost three-fourths of the legally active inmates had appealed their cases, but only one-third of the low-mediums had. Of the active inmates who had been confined to segregation or a maximum unit, the majority had sought legal assistance while there, but only 30% of the low-mediums had done so.

When asked to assess the level of concern about legal rights among the inmate population as a whole, two-thirds of both the legal activists and the low-mediums agreed that inmates are concerned. Both groups also agreed, however, that women in prison are not as likely as men to take action to protect those rights. The low-mediums were roughly twice as optimistic as legal activists on this point, with about 40% of low-mediums and 21% of legally actives believing women would take legal action for their rights. Legal activists also believed that female inmates are more likely than males to obey prison rules -- even those that they feel are unfair.

Motivation: Conclusions

The implication of our findings on motivation is that legally active inmates appear to have a much more realistic perception of overall inmate motivation, since more low-mediums say women are willing to take legal action but they are not active themselves. Legally active inmates appear much more motivated in general, but their motivation does not change their ideas about the level of motivation of and probability of action by their peers. As far as motivation goes, then, they may be viewed as seeing themselves apart, if not aloof, from their peers.

Legally Active Inmates: Conclusions

It is impossible to define exactly what constitutes a legally active inmate. By analyzing the preceding data, we can, however, note certain characteristics and patterns that seem to surface among the inmates involved in some form of legal activity during their incarceration. Overall, they appear to be a relatively sophisticated group of women that has completed a higher level of education than their counterparts who scored low and medium on our legal activity scale.

For the most part, legal activists are first offenders facing long sentences for violent crimes. They are extremely aware of their rights and of the legal system as a whole, and what knowledge they don't have upon entering a prison they seek out. Inmates who are legally active are also somewhat pessimistic about the probability of activism by their peers.

Given these general conclusions, we can tentatively answer two of the three subsidiary questions asked at the beginning of this chapter:

- Do legally active inmates have the same needs and concerns as the low-mediums?
- Are legally active inmates more motivated than their peers?

As we mentioned earlier, there is no substantial difference between the needs and concerns of legally active inmates and those of the low-mediums. Therefore, the level of activism cannot be related to levels or types of needs and concerns. Our data does indicate legal activists are more motivated, but why?

One of our conclusions is that legal activists may bring a higher level of overall motivation with them into prison, so the development of motivation within the corrections system is seen as extremely unlikely. Legally active inmates on the whole enter the prison system with a higher level of self-esteem which may come from their seeing themselves as having occupied productive positions in the society. Their higher levels of education may give them a greater ease in framing and communicating their concerns. They bring knowledge and motivation with them and use these to pursue their rights despite -- or perhaps because of -- long sentences. Because the legal activists are, as a rule, new to the corrections system, their profile is quite different from that of the inmates among the low-mediums who have had a great deal of interaction with the system and are just "doing their time." Legally active inmates appear to use their time.

Institutional Factors

The relationship between resource utilization and availability can best be examined by looking at each institution as a separate system with its own resources, inmates and administrative policies and attitudes. Using systems analysis, we expected legal activism to be related to the quality of resources, the profile of the inmate population, and the attitudes of the administrators.

Our examination led us to ask the following questions:

- Where are the legally active inmates clustered by institution?
- What resources are available in each facility?
- What are the attitudes of the administrators towards litigation by and provision of resources for inmates?
- What are the attitudes and characteristics of the inmate population of each institution?
- What institutional factors might influence activism?

To explore answers to these questions, we will discuss each facility separately, taking into account the number of activists in each prison and the effect they potentially have on both the general population and the provision of legal resources.

Clustering of Legal Activists

We found that the legally active inmates are not evenly distributed among the four prisons, a finding that supports one of our hypotheses -- that institutional factors influence activism. The distribution for both low-mediums and activists is given in Table 12.

After breaking down the legally active inmate group by institution, we computed the mean level of activism in each group. (See Table 13.) Our discussion of resource use and availability in the institutions studied considers the following factors which we determined would be pertinent:

Table 12

Proportion of Legally Active Inmates by Institution

	Low-Mediums	Legal Activists
Institution A	77.8%	22.2%
Institution B	82.2	17.8
Institution C	96.9	3.1
Institution D	100.0	None

Table 13

Scores on Legal Activism Index by Institution

	Mean Score	Maximum Score	Number of Activists
Institution A	3.8	8	6
Institution B	3.7	7	8
Institution C	1.9	6	1
Institution D	2.6	4	None

institutional characteristics (size, location, etc.); inmate population characteristics; availability and quality of legal materials and support services; availability, quality and accessibility of legal personnel; factors which might be unique to that particular institution; superintendent's attitudes; and commissioner's attitudes.

Prison Profile: Institution A

Institution A is a low to medium security facility in a rural section of State X. It houses 226 men and 84 women. The female population is not sentenced to serve time at the prison, but are sent to Institution B which is also in State X. They can be transferred from B to A if their homes are in that part of the state and provided they have the proper security classification.

While a detailed breakdown of inmate characteristics at each of the institutions can be found in Table 3 (Chapter III) there are some specific findings that should be noted here. First, roughly half the inmates at A have completed at least their high school educations, and half of those acquired further education. The ethnic distribution shows more than half the population is black (62%), and the mean age is 30.3 years. The inmates, then, are better educated than the sample in general, are predominantly black and show no significant age difference from the total sample.

Their criminal histories indicate they are less likely than the overall sample to have been previously convicted or incarcerated, and their mean sentence length (2.5 years) tends to be shorter than that of the total sample (3.3 years).

Inmates at Institution A ranked highly in all categories measuring sophistication. Almost all (91%) knew their legal rights, about two-thirds (63%) had used the law library at one time or another, and most (93%)

were familiar with the institution's grievance procedures.

Women at A are more likely than the rest of the sample to take action relating to their concerns. When put in segregation and maximum units, half of them indicated they have sought legal assistance, and 87% of the inmates said that when faced with a problem requiring an attorney they have attempted to contact one. In the total sample, only 74% of the inmates said they've tried to contact an attorney when they have needed one. About half of the inmates at Prison A had asked other inmates for advice, which was the norm for the total sample.

According to our legal activity index, Institution A ranked at the top of the four prisons studied for legal activism. The mean score for the population was 3.8 points (out of a maximum of 8 points), and 6 of the 27 inmates interviewed (22.2%) were identified as being legally active.

The inmate profile for the population at Institution A showed some overlapping of the legal activist profile for the total sample. Since A had the highest level of legal activity of the four prisons studied, this overlapping was expected. Like the legal activists in the sample, these inmates have a high level of education and little or no criminal history, they are sophisticated and demonstrate a high level of motivation. Their sentence lengths were not particularly long, which is at odds with the activist profile, where legally active inmates were serving substantially longer sentences. In general, though, we found some striking similarities between the profile for legal activists and the population at Institution A, and this, in turn, reflects similarities in level of resource utilization between the two groups.

As detailed in Chapter 5, legal resources at the prison were rated as being insufficient. They were still better than material resources found at two of the other three facilities, however. An important factor was that the prison is coed, so that books not available in the women's section could be obtained from the library in the men's section. The prison provided support services such as photocopying, notary, etc., for inmates pursuing legal redress, and if women in the maximum unit or segregation requested legal books, these were supplied.

Law library personnel are available to inmates in Institution A whenever the library is open -- about 5½ hours per day -- and about half the inmates interviewed found the personnel there to be helpful. Access to attorneys is quite limited at the prison, since inmates are allowed only two telephone calls each month, whether to family and friends or to counsel. In addition, the calls must be made collect and can only be placed after 6:30 p.m.

There are, however, a number of legal service projects that work with inmates at Institution A, and these appear to have been very helpful. Half the inmates who needed to contact an attorney and were able to said they had found their attorneys through a legal service or prisoners' rights group. The figure for the total sample was almost half that, 29%. One possible reason for the relative success these groups have at A may be attitude. A prisoners' rights attorney who works with inmates at Institution A expressed a great deal of interest in meeting the needs of the female population there, and, although the agency with which she worked did not specifically focus on the women at A, this lawyer expressed an eagerness to advise and consult with them.

In addition to being able to obtain materials from the men's law library as a backup, the women at Institution A also have access to male writ writers in the men's section of the prison, in addition to the legally active women. The coed nature of Institution A begins to emerge as an important factor in the level of activism of the female inmates there.

There are other factors that make Institution A unique and which could also influence the degree to which the female inmates become legally active. Despite the overall insufficiency of the resources, their relative quality when compared to the other institutions and the availability of legal personnel in general make confrontation with and resolution of problems easier. The fact that most of the women were transferred to Institution A from Institution B to be closer to home indicates that these women are probably seeing their families and receiving emotional support from them. This probably affects their well-being in a positive way, making it easier for them to take active roles. In addition, regular contact with their families could well increase their motivation to get out and be with them. Several inmates interviewed expressed concern about the negative aspects of the transfer from Institution B, namely that if they were perceived by the prison administration as being "troublemakers" they could be shipped back to B. In spite of what they saw as being a threat hanging over their heads, the inmates appear to have enough other motivations for activism to offset this.

Of further import, the prison permits a great deal of communication among inmates, so that legal activists have access to other inmates both by general mingling in the population and through the law library. Also, female inmates are allowed to communicate with male legal activists by talking across the fence separating the two sections of the prison, and we found such legal advising did occur. The high level of interaction among the women and between the women and the men increases the opportunity for exchange of knowledge and advice concerning legal issues, which consequently affects legal activism.

The superintendent at Institution A appeared familiar with inmate litigation in general and with the materials and resources available in her prison to meet inmates' legal needs. She did not, however, express a clear opinion as to the value of litigation; nevertheless she ranked the provision of legal resources as having second highest priority for her administration. She also stressed that she tries to maintain communication with inmates and to respond as quickly as possible to their problems.

Since the commissioner of State X was unavailable, the department's counsel was interviewed as the commissioner's delegate. The counsel said the commissioner is a strong supporter of prisoners' rights to legal materials and personnel. All maximum and medium security facilities in the state, he said, have law libraries, and with minimum security institutions, lack of libraries results from lack of funding. The counsel indicated that the department sees prisoners' suits as important. "Lawsuits," he said, "affect the department and change the kinds of policies the department has." As the Department of Corrections has a great deal of discretion in allocating funds to prisons in the system, the commissioner can directly influence funding levels for legal resources. At Institution A, approximately $6,000 per year is spent for legal materials, but since there is one law library for male inmates and another for female inmates, this funding has to cover materials for two libraries. Given that the men's library is more substantial than the women's, most of this money probably goes to the larger library.

Conclusions: Institution A

We expected to find that institutions with fairly adequate resources would have high resource utilization and this, in turn, would result in a higher level of demonstrated legal activism. Each of these factors, we believed, would be interrelated with the others and where one existed the others would. This hypothesis was generally found to be supported in Institution A.

The prison was quite sophisticated in its inmate profile, availability of resources and its administrative attitudes. Inmates were overall better educated than the samples from other facilities, had not spent much time either in prison or involved in the criminal justice system, and appeared highly motivated -- all factors we determined could affect levels of activism. The high level of activism that exists in the facility would naturally affect newcomers to the prison and, thus, ensure maintenance of legal activity.

The prison's rural location may actually increase the likelihood of resource utilization among female inmates. Since inmates are closer to their homes, they may feel more urgency about release and may be receiving support and encouragement from their families for legal activity. The presence of men, who have traditionally been more legally active, could also influence levels of activity among the female population, especially since the men and women can communicate with each other. Overall, the high level of inmate interaction existing at A is probably a key indicator in explaining the relatively high level of legal activism found among the female inmates there.

Prison Profile: Institution B

Institution B is a large, maximum security institution housing 450 inmates, located about 45 minutes from a major metropolitan area where many of the inmates come from. Mean age of the inmate population is 29.9 years. The level of education among inmates at B is lower than the total sample average, with almost 70% having less than a high school education. The ethnic breakdown -- 45% black, 31% Hispanic, 24% white -- shows a high proportion of Hispanics relative to the rest of the sample, but this was the only institution with a large number of Hispanic inmates.

Inmates at Institution B are less likely than the total sample to have previous convictions and previous incarcerations. Sixty percent of the sample at B have no previous incarcerations (49% for the total sample), and 35% have no previous convictions (29% for the total sample).

Although the inmates at B are less likely to have criminal records than the total sample, they are serving substantially longer sentences. While 49% of the total sample are serving sentences of more than two years, 67% of the sample at Institution B are doing so. It is, of course, the only maximum security facility studied.

The women at B are quite sophisticated, but not as knowledgeable as their counterparts at Institution A. Two-thirds of the women at B had used the law library, and two-thirds knew at least some of the library's hours. Almost all (92%) knew their legal rights, and the majority (83%) were aware of the institution's grievance mechanism (68% for the total).

The inmates are fairly motivated, but, again, not to the extent that inmates at A are. Of the inmates who have needed an attorney, only 75% tried to obtain one, and inmates at B are slightly less likely than the total sample to seek aid while in segregation or a maximum unit (37% for the total sample, 33% for inmates at B). This could be due, in part, to a recent suit which required stricter application of due process requirements in disciplinary proceedings. Inmates may, then, be getting hearings which they feel are fairer, so that once they are confined in segregation or a maximum unit they may actually feel less of a need for legal assistance. Women at B appear to be more motivated than those at other institutions to ask for legal advice from other women; 67% of the inmates at B had done so, while only 53% of the total sample had done so.

Institution B ranked second in the number of legally active inmates and average level of legal activity. Eight (17.8%) of the inmates interviewed at B were identified as being legally active, and the mean legal activity score for the entire Prison B sample was 3.7 points out of a maximum of 8 points. (See Table 13 for comparisons.)

The inmate profile for Institution B does not match that for legal activists as closely as did the profile for inmates incarcerated at Institution A, but there are a number of common characteristics. Many are serving long sentences -- almost one-third are serving more than five years -- and roughly two-thirds (60%) have never been in prison. The inmates do not demonstrate a higher level of motivation than the rest of the sample, except that they communicate among themselves to a greater extent. Finally, they appear to have a higher level of sophistication than the bulk of the inmate sample.

One of the characteristics which does not fit the legal activist profile is education. Inmates at Institution B are less educated than the average for inmates in the sample. We found that ethnicity and criminal histories for women at B differ from the total sample, and these could be important factors in understanding the level of legal activity, which -- although not as high as that found in A -- is still high. Given the proportion of Hispanics found in Institution B, we found a disproportionate number of Hispanics among the legally active inmates in the facility. We imagine that there is a great deal of cohesiveness among the Hispanic population in the prison, fostering greater communication and exchange of knowledge in the group, as was seen among the entire prison population at Institution A.

The inmate profile for Institution B shows how different factors can affect legal activism. At Institution A, there were high levels of legal activity, a proportionately high number of legal activists, and considerable overlapping of the general profile for legal activists and that of the inmates housed in the prison. Institution B has less legal activity, fewer legal activists and less intersection of the activist profile and the prison population profile. We believe the primary place where the profiles overlap (criminal histories), as well as the high percentage of Hispanic inmates in the facility and what we perceive of as being their cohesiveness and communication are key factors in explaining the legal activity that does exist at B.

The discussion in Chapter Five of legal materials and support services at Institution B indicated these were superior to those found at Institution A. The strong points for B are the quantity and quality of materials in the law library. Inmates identified some of the weaker points in availability of materials and support: length of time required for and cost of photocopying (20¢ per page), absence of notary public, and difficulty in obtaining books from the law library while inmates are in the maximum unit.

Legal personnel available to inmates at B appear quite good. The prison has a number of inmate law clerks, and there is also substantial support from legal personnel outside the facility. Inmates indicated they found the legal personnel and jailhouse lawyers to be both knowledgeable and, in most cases, helpful. Institution B shares with Institution A the state policy regarding telephone calls, and inmates expressed many of the same concerns at B as they had at A. The restrictions on use of the telephone apparently is of concern to many inmates in the prison. While 55% of the total sample indicated they had experienced difficulties in using the telephone, 71% of the inmates at Institution B had done so. However, when asked if they were able to get an attorney when needed, inmates at B did not have any more difficulty in doing so than did the sample as a whole.

Perhaps the most striking institutional factor at B is the number and apparent quality of inmate legal clerks available to the general prison population. This could well have a direct impact on the level of activism in the facility, since the inmates, as noted earlier, communicate among themselves quite a bit about legal issues. If they are communicating with the law clerks, and this appears to be the case (see Chapter Five), there will be a higher level of activism. A number of landmark inmate cases have come from Institution B, and this, no doubt, increases the level of awareness about legal issues. In fact, upon entering the prison, new inmates are given copies of two of these inmate cases and the court's findings on them. This court-ordered distribution of legal material obviously further increases awareness.

The superintendent of B spends very little time with the inmates, since her duties are all related to administration and supervision of staff. The size of the facility, one of the largest women's prisons in the country, also plays a part in this. Her stance towards provision of resources and inmate litigation was largely a passive one. She expressed an understanding of the inmates' need for resources, but did not appear to feel any responsibility for providing any more resources than those in existence or to provide services to assist inmates in their cases. However, she did recognize the need for inmate litigation, but would like institutional needs to be considered more in court decisions.

Since Institution B is located in State X, as is Institution A, it has the same commissioner of corrections. Reiteration of his attitudes towards provision of resources and litigation is therefore not necessary. (See page 77)

Conclusions: Institution B

In looking at the system operating in Institution B, we see some changes from Institution A -- even though both prisons are within the same state. In the profile of inmates incarcerated in B and in administrative attitudes towards resource provision, we found factors encouraging resource utilization to be less compelling. Inmates were proportionately less active, presumably because of lower educational levels, incomplete support services that rendered superior material resources less effective, and a superintendent who did not encourage inmate activism or the provision of resources. Also, the prison's maximum security classification impinges on inmates' interaction and communication, although we believe one subgroup, the Hispanic women, has been able to markedly overcome this. In general, we did not find the inmates to be inactive when compared to the overall sample, merely less active than inmates at the medium security Institution A.

The legal activity among inmates at B is due in large part, we think, to the urbanization of the population, since most were from a nearby metropolis. The proximity to this urban center also affects the availability of legal personnel who were found to be highly committed to serving the inmate population.

Legal activity at Institution B is also influenced by the long sentences inmates are serving and the quality of inmate law clerks there. Finally, the commissioner's support of inmate litigation and the history of litigation at the facility are important factors in the level of legal activity in the prison.

Prison Profile: Institution C

Institution C is the only facility for women in State Y. It is a minimum security institution in a rural section of the state and houses 184 women.

The mean age of the inmate sample from C is 28 years, which does not differ substantially from the total sample's mean. Educationally, however, a slightly higher percent of inmates interviewed at C (50%) graduated from high school than was true for the whole sample (42%). Ethnically, we found the high proportion of black inmates at C (63%) to be noteworthy.

Criminal histories indicate inmates at C are more likely than inmates at other facilities to have criminal histories. Their mean sentence length (1.4 years) is well below that for the total sample (3.3 years) -- only 47% are serving sentences of one year or more, compared with 67% for the whole sample. More inmates at C have previous convictions and incarcerations than was found for inmates in the total sample -- only 1 % had no previous convictions at C, while the figure for the total sample was 29%. Almost half of all the inmates interviewed in this project have never been in prison before, but only 17% of the women interviewed at Institution C have no previous incarcerations.

Inmates at C did not score well on the index for sophistication/knowledge. Over half did not know law library hours and three-fourths had never used the library. As was true for the total sample, most (86%) knew their legal rights regarding use of law library and uncensored attorney correspondence.

While one inmate at Institution C was identified as legally active and none were at D, overall inmate activism scores were lowest at C. Only one-third of the inmates asked another inmate for advice, and of those who needed attorneys, only 57% had ever tried to contact a lawyer. Even when placed in segregation, the inmates at C are less likely to take legal action -- 29%

of the inmates at C had done so, but 36% of the total sample had.

Institution C ranked third out of the four facilities studied in the number of legal activists, and it was fourth in terms of overall legal activity in the institution. One inmate out of 32 (3.1%) was identified as being legally active, and the mean score on the legal activity index was 1.9 points, out of a maximum of 8 points.

There was little overlapping of the legal activist profile and the inmate profile for the sample at Institution C. Inmates at C did have a somewhat higher level of education, which was also true of the legal activists. In contrast to the legal activist profile, we found inmates at C to be serving shorter sentences, and have more previous convictions and incarcerations. Inmates did not appear knowledgeable or motivated and legal activism at Institution C is virtually non-existent.

The quality and availability of resources at the prison are very poor, as detailed in Chapter Five. The law library has sparse materials and most of these are on microfilm, which limits legal research considerably since several volumes are usually put on the same roll of film. To compound the problems of availability of materials, the library is open only twice a week and the hours are not scheduled. None of the inmates interviewed who have used the library felt the material there to be adequate. Also, inmates placed in segregation or maximum units are not permitted to have legal materials.

Although State Y has a $130,000 budget for providing legal aid to inmates, the inmates are unaware of the program and, at the time of this study, there was not a single lawyer from this program servicing the facility. Inmates expressed dissatisfaction with the irregular schedule of the law librarian and over the difficulties in obtaining legal counsel. The researchers found that the inmates identified by their peers as being jailhouse lawyers were not knowledgeable and could not, therefore, be considered legal resources for the inmates.

There are a number of institutional factors that could potentially affect the level of legal activism at Institution C. There is a good-time program there, and 48% of the inmates interviewed have accumulated over ten days of good-time. Fear of losing this time may prevent women from becoming legally active, and this parallels our hypothesis on why inmates nearing their parole eligibility are not active. In addition, 69% of the inmates sampled at C are paid more than $1 a day for their institutional jobs, while only 41% of the total sample earn as much. This may serve as another deterrent to activism; women may believe that if they maintain a certain level of passivity, they won't lose their jobs.

Another interesting finding at C is that 53% of the inmate sample have spent time in solitary confinement or maximum security. Since most are serving short sentences, it is unlikely that this is part of a sentence, but rather indicates that inmates who violate disciplinary rules are dealt with harshly. This is particularly important in light of the high ranking inmates at C gave to concern over disciplinary matters. (See Chapter Four.)

The superintendent of the prison does not have a background in corrections, and spends her time administering the institution. She seems to primarily carry out directives from the commissioner's office and exercise little discretion of her own. Not only does she not see providing legal resources as a priority, she is not even familiar with the resources that are available in the prison. In the interview, she minimized the importance of inmates' concerns, indicating that they become pressing only when a situation arises that activates the inmate and once the crisis has passed the importance of the issue for the inmate also passes. The superintendent does not support inmate litigation and further stated that although legal personnel are available if the inmates need assistance, she does not feel that it is the institution's job to "advertise" the existence of attorneys. In general, the superintendent said, "we don't have very sophisticated people here." So, her overall view of the inmates in Institution C is that they are unmotivated and unsophisticated.

The commissioner of State Y is more knowledgeable than the superintendent, but he also did not see inmate litigation as necessary. He noted that a great deal of funding goes into providing inmates with legal resources and access to legal personnel each year. The state has two legal assistance programs, with budgets totaling over a quarter of a million dollars, but these resources are not distributed equally among the institutions in the state. Institution C has minimal services, despite the existence of these programs at the state level. The commissioner believed it was better to provide inmates with legal resources before required to do so by litigation. The Department of Corrections is extremely centralized in State Y, and inmates are encouraged to write directly to the commissioner when faced with legal concerns, especially those related to good-time or disciplinary matters. Since these types of issues have traditionally been dealt with at the institutional level, this approach may explain, in part, the superintendent's lack of expressed concern for inmates' issues: she has little discretion in handling problems, little experience in doing so, and little opportunity to do so.

Conclusions: Institution C

Institution C was lacking in every area we examined: inmates were inactive, resources were inadequate, the superintendent expressed no concern or commitment to inmate litigation, and the commissioner saw no need for inmate litigation. The inmates' short sentences probably influenced the level of activism. A woman who will be released in a few months is hardly likely to get embroiled in litigation. Most of the women at C have been in and out of the criminal justice system for many years and may have given up to some extent.

The inmates' lack of knowledge may actually be a result of administrative reluctance to inform them of various policies and services in the facility, even though departmental policies superficially appeared to encourage utilization of legal resources. An inmate who has no resources, no lawyer, no knowledgeable peers to ask and little access to potential resources cannot be expected to know what exists, to know what to ask for or how to use it. This very "passivity" is then interpreted by prison officials as evidence for a lack of interest in or need for legal resources and as justification for low resource provision. On the whole, the institution appears surprisingly punitive for a minimum security facility. Inmates are given jobs and good-time, but these may actually serve to control urges towards activism, rather than raising the level of sophistication and awareness. Fear of losing either jobs or good-time is especially relevant considering the percent of inmates at C who have spent time in maximum and the concern they expressed over disciplinary matters.

Prison Profile: Institution D

Institution D is located in the outskirts of a medium-sized urban center and houses 10 women and 120 men. It is a medium security institution with facilities for maximum, medium, and minimum security inmates, following a community corrections model.

The mean age of the sample of 5 inmates at D is 20.8, and none of the inmates interviewed had an education beyond high school. In fact, only 20% had completed high school. They are, then, substantially younger than the rest of the sample and are also less educated.

Inmates at D deviate substantially from the total sample in terms of criminal history. Four-fifths of the women have criminal histories, though only 20% have histories over five years which could be because the inmates at C are so young. Almost all the women have both previous convictions and incarcerations, but the average length of their sentences is quite low.

Only 60% of the inmates at D answered correctly when asked about their legal rights. Overall, they did not rank highly in terms of sophistication and knowledge. Though all the inmates knew the hours of the general library where legal materials are kept, none had ever used any law books.

Despite the above, inmates at D appear quite motivated. Forty percent sought legal help while in segregation or maximum, compared with 36.4% of the total sample. All of the inmates who had needed an attorney had attempted to contact one (only 26% of the total had), but only 40% of the sample at D had asked another inmate for legal advice, which is below the sample average.

We identified none of the inmates at D as being legally active, but the mean score for legal activity was 2.6, which was 0.7 points higher than that of inmates at Institution C which had one legal activist out of 32 women.

The overall inmate profile for Institution D is fairly typical of the low-medium total inmate sample. The women are not well-educated, and their young ages mean they have probably experienced less of the world in general, so they are less able to take effective action to protect their rights. Like the low-mediums in general, inmates at D have previous convictions and previous incarcerations, and they are serving short sentences. They lack sophistication and knowledge, but are somewhat motivated. Obviously, inmates at D would need good resources and considerable assistance to overcome their lack of knowledge and education and become active legally on their own behalf.

Institution D had, by far, the most inadequate material resources of any institution visited. The materials that did exist were kept locked in a cabinet, and not a single inmate interviewed knew there were law books in the institution.

There are no available legal personnel at D to assist inmates. None of the inmates have legal skills, and the librarian is actually the teacher for the G.E.D. tutoring program. An outside attorney from the state comes to the facility once a week to provide counsel, but inmates were not sure who he was or exactly what he could do for them. Otherwise, as discussed in Chapter Five, most legal services came from private attorneys who do appear to be responsive since none of the inmates had experienced difficulty in getting an attorney when they needed one.

The primary institutional factor that needs to be considered at D is the size of the women's unit compared to that for the men. There are only 10 women in the facility, but 120 men. The women's unit is contained within the men's prison, but the two populations are not allowed to mix at all. This prevents the female inmates from having easy access to resources that do exist: they have fewer hours in the library, in the classroom and in the vocational training areas. Overall, we found that the women are virtually ignored at D. They are left to their unit and denied access to programs and material available in the larger facility. Women who have tried to get more access have had little or no success.

The superintendent is very concerned with implementing a community corrections model and in alleviating problems of overcrowding. He is in no way responsible for funding legal materials and personnel, since all budget allocations are made directly by the state defender's office. The superintendent does not support inmate suits, claiming most of them are "frivolous."

The commissioner has no experience in corrections and had just taken the position when the study was conducted. His background is primarily in mental health, which was the case for the commissioner for State X as well. He lacks knowledge about the legal tools available in the institutions of the state and gave little priority to provision of legal materials and personnel though while serving as a mental health administrator, he considered legal activism permissible and even desirable among the patients under his care. He saw the women housed at D as being passive, and even claimed some actually enjoyed being in prison.

Institution D: Conclusions

It is not surprising that there is little activism at Institution D, given the inmate profile, available resources and administrative attitudes. The inmates are serving short sentences and are probably biding their time until release. They are uneducated, unknowledgeable, and unsophisticated, so that without adequate resources and assistance, activism is virtually impossible for them. Because of this, inmates at D are solely dependent on outside legal counsel. The lack of resources and the administrative failure to consider inmate activism important, if not necessary, compounds the inmates' inability to pursue legal action.

Summary and Conclusions

Some crucial evidence emerges from this data which can help explain why some women in prison are more active than others and why, in turn, women in prison are less litigious than their male counterparts. There are important differences in characteristics and in institutional factors which appear to affect resource utilization. It is not coincidental that the legal activists we found are clustered in institutions with good resources, since resource availability and utilization consistently prove to be directly related. It is hard to say which comes first: activism or resource availability. What is important is that some systems are more active than others and there are a variety of reasons for this, none of them universal indicators.

Legally active inmates are distinct from the rest of the sample in a number of areas. Their level of education and the fact they have held full-time jobs indicates a higher SES background for this sample, since many of the women identified as low-mediums are supported either by their families or the state. Legal activists are relatively new to the criminal justice system and are facing long sentences which potentially combines an overall fight for rights enjoyed on the outside with a fight for less time and better conditions.

The low-medium inmates, on the other hand, have been enmeshed in the system and may well have been institutionalized to the point of passivity. Furthermore, their short sentences may preclude a desire to become active when release is so close.

It is apparent that the highly active inmates have a greater sense of power in their own lives, stemming probably from an adequate economic status, than do the low-mediums. The latter may feel caught in a cycle of criminal behavior and economic dependence (note the high percent of low-mediums with property offenses).

We see, then, that it is, indeed a special kind of female inmate who takes legal action. Looking at why women in prison are less active than men, we speculate that activism among men is sanctioned while activism by women is considered deviant behavior.

By examining the separate prison systems, we have attempted to describe factors that could potentially influence resource utilization. To facilitate comparisons for the reader, we have ranked the institutions according to how well they score as a system. Each category discussed in the institutional analyses has been rated, with 4 points given to the institution ranking highest and 1 point to that ranking lowest.

Table 14

Legal Resource Utilization and Provision Scores by Institution

	Institution A	Institution B	Institution C	Institution D
Superintendent attitude[a]	4	3	1.5	1.5
Commissioner attitude[b]	3.5	3.5	2	1
Material resources	3	4	2	1
Personnel resources	3	4	2	1
Inmate profile[c]	4	3	2	1
Legally active score[d]	4	3	1	2
TOTAL SCORE	21.5	20.5	10.5	7.5

[a] The superintendents in Institutions C and D expressed the same attitudes so these two institutions were rated equally in this category.

[b] Institutions A and B have the same commissioner.

[c] This category assesses the extent to which the inmates possess characteristics of the legally actives since we feel that this has a direct influence on resource utilization.

[d] This is included because one of our assumptions has been that high legal activity promotes resource utilization and perpetuates activism.

From this chart, we see that Institution A receives the highest rating of the four prisons studied. Although the resources at A were inferior to those at B, we believe the high level of communication among the women and between the men and women has a positive affect on resource utilization and activism there.

While Institution B has been the defendant in much inmate litigation, it scored below A. This may be because the inmate profile does not reflect characteristics we found among legal activists, such as level of education; therefore, this could explain why inmates at B are less legally active than those at A. Activism in the facility may actually be highest among the Hispanic population since this group was disproportionately represented among inmates we identified as legally active. The implication here, as is the case in Institution A, is that a highly communicative inmate population will positively affect activism. We speculate that there is a natural bonding among the Hispanic women and a high level of communication which results in legal activism among the Hispanics and in Institution B overall.

Institution C ranked substantially below both Institutions A and B. Poor resources and a lack of administrative concern, coupled with an inmate profile of long involvement in the criminal justice system certainly contributes to the low ranking. Furthermore, the low activism could be a reflection of strict disciplinary measures which may be employed by the administration.

Institution D scored the lowest. The inmates had many characteristics of the low-medium profile, and their legal activity score was low. This, compounded by a lack of resources and administrative support, leaves the inmates almost powerless to meet their needs through activism. Unlike Institution A, where the presence of men actually seemed to encourage activism, the co-ed nature of Institution D may actually inhibit activism since the female population is always given second priority to the men in terms of access to programs, resources and classes, and since the very small number of female inmates contributes to the sense of being a powerless, ignored minority.

CHAPTER SEVEN

CONCLUSION

This project set out to explain the low level of litigation by women in prison as compared to their male counterparts. We probed a number of factors we expected to be significant determinants of legal action. The three main areas of inquiry were

- legal needs of female inmates and the degree to which they are concerned about these needs;
- legal resources available to women in prison; and
- inmate and institutional characteristics which influence resource utilization.

Each area has been examined in detail in preceding chapters. The purpose of this concluding chapter is to bring together findings discussed separately and to respond to the underlying question: given that females are less litigious than males, why?

While the project did not use a national sample of inmates and corrections systems and, due to institutional limitations, did not necessarily draw fully representative samples of the populations from the four prisons studied, we believe we did not introduce any systematic biases. Given these cautions, a number of important trends emerged from the study which warrant further investigation and which may well represent conditions that exist nationally.

We found women in prison have a wide range of critical legal needs and concerns and do not have adequate resources available to deal effectively with them. Further, our research indicates utilization of existing resources is directly affected by an array of factors, some related to the inmates' own characteristics and others related to those of the facilities in which they are housed. Administrators at both the state and institutional levels, as well as others within the criminal justice system, demonstrated a general lack of understanding as to the nature and extent of female inmates' needs and concerns, and this appears to have a major impact on resource provision. We found that policies ostensibly designed to facilitate resource utilization, in fact, often limit it and, thus, have restricted inmates' ability to resolve their legal problems.

Legal Concerns and Needs

One of our research goals was to establish whether the lack of litigation by female inmates reflects a lack of concern or whether they have concerns that cannot be properly resolved because of inadequate resources or other institutional factors. We recognized that not all the concerns have been traditionally dealt with through the courts, but we perceived each concern to have potential for court involvement, and we defined "legal action" to broadly include the use of any mechanism to confront a problem (e.g., writing letters to officials, filing grievances, as well as using the courts).

Inmates interviewed not only expressed concern about every issue we had identified as having potential legal importance, but they also showed a more acute awareness of their legal situations than we had anticipated. While such an underrating on the part of researchers who do not have ongoing interactions with inmates is understandable, we found that correctional administrators, inmate attorneys and institutional counselors -- groups who presumably have more intimate contact with inmates -- consistently and dramatically underestimated the level of concern of female inmates. This lack of understanding on the part of key actors in the correctional systems studied cannot be attributed to a systematic tendency to minimize all prisoners' concerns since all uniformly ranked the level of concern of male inmates substantially higher than that of female inmates.

We found that the six categories of concern fell into three clusters in terms of importance. Issues of jail credit/good time and child custody/family matters were the most widespread concerns, and for women with children the latter was consistently the highest ranked category. The middle cluster of concerns included prison programs, appeals and disciplinary issues, and the third, and least crucial for women interviewed, was outstanding warrants and detainers. The level of concern over these issues varied among the prisons, reflecting the conditions of the institutions and their inmate population profile.

Even though we have grouped the categories according to their relative importance, inmates said all of the issues are extremely important to them. No issue was deemed unimportant. Furthermore, the women not only expressed personal concern over the different issues, but also felt other women shared their concern to a large extent. For example, even women without minor children rated child and family matters as a critical issue.

By interviewing administrators and attorneys, we were able to compare their perceptions of inmate concerns with the extent of concern expressed by inmates. We found the system actors substantially underrated the overall degree of concern, but that they did have a relatively clear sense of issues that are of the greatest importance to women in prison. They gave the highest category ranking to child and family matters and to jail credit/good time and the lowest to warrants and detainers. The three remaining categories -- disciplinary matters, prison programs and appeals -- were seen as somewhat important, but the actors did not accurately assess the priorities of the issues. They gave disciplinary matters the third highest ranking, while inmates ranked three other issues as having more importance to them.

Not only did the non-inmate respondents inaccurately assess female inmates' priorities, but they also consistently minimized the degree of women's concern over issues compared to men's. In every category except child custody and family matters, the combined ratings of all the actors were higher for men than women. Differences in relative ratings occurred most noticeably in the areas of child custody and family matters and appeals. Actors indicated they view appeals as the primary concern and child custody and family matters as being the least pressing concern for male inmates. Although women interviewed did not consider appeals one of the highest of their concerns, they clearly indicated it is an important one.

Overall, we found the pervasive assumption that male inmates are more concerned about legal issues and legal rights than are female inmates to be false. Women in prison proved to be as concerned about these issues as their male counterparts, and, moreover, they must also contend with the additional burdens of child custody and family matters and prison programs which reflect the lack of equity within correctional systems.

Child Custody and Family Matters

Our findings show that even for women without children, general family issues remain a primary concern. Traditionally, child custody and visitation arrangements have been the responsibility of social service agencies and, therefore, have fallen within the confines of one bureaucracy while the mother is living within the confines of another. Quite often, the two state agencies controlling the lives of mother and child do not interact at all and, therefore, may not fully understand the limitations each places on the mother-child relationship. Prison administrators have not traditionally seen custody and visitation matters as being legal problems and have not felt compelled to assist in their resolution by providing inmates with appropriate resources. The legal personnel who work with inmates are generally more familiar with criminal rather than civil matters, and their unfamiliarity with social service systems involved in custody issues can prove costly to inmate mothers who must rely on them. On the one hand, then, administrators have not felt custody and visitation problems fall into their sphere of responsibility and inmates' attorneys may lack the necessary expertise to successfully maneuver agency channels. The social service agencies, on the other hand, have traditionally focused on an inmate mother's fitness to parent, which has been called into serious question by virtue of her incarceration. Generally, there has been little attention given to finding ways to sustain or strengthen the mother-child relationship. New programs, many of which originated with the inmates themselves, have emerged recently to meet this need, but these exist in limited number and are the exception. The rule continues to be examining and judging the inmate mother's character.

Women in prison facing custody and visitation problems are deeply affected by the lack of resources available to help them maintain the crucial relationships with their family. They suffer from what they perceive to be a lack of administrative interest in and response to this critical area. In one facility we visited, an inmate told of becoming so upset by custody problems facing her that she escaped in order to deal with the situation, and this not only compounded her legal problems, but also added to her sentence. Another, who had gone into court twice to retain custody of her daughter, talked about the frustration of dealing with the social service agency that three times attempted to take her child away. The social workers, she said, were not giving her correct information and she did not know how to get it. She called them "a bunch of liars...they just tell me things and things are the other way around." Once custody had been settled, it took the inmate another month to arrange for her daughter to visit, their first since the mother's incarceration seven months earlier. She felt everything in the system was stacked against her, her bond with her child was threatened, and she was powerless to respond. Besides, she said, "they never believe me."

Other inmates expressed the same frustration at attempting to prove fitness to parent while given little opportunity to demonstrate commitment to their children. Another inmate interviewed had been extremely upset over not seeing her child and then discovered the child regularly visited his father in the same prison. She had never been informed of the child's arrival and was, therefore, never able to meet him in the visiting room. Frustrated by the lack of contact with her child, she repeatedly burned herself with cigarettes, resulting in her being locked in the maximum unit. Once there, lack of visiting privileges with her child was sanctioned by institutional policy.

Jail Credit/Good Time

The high level of concern over jail credit and good time evinces that women's legal needs are essentially the same as men's: they want to get out of prison. Women who move between local jail and state prisons may find they lose credited time along the way. One inmate felt the institution used her credit time as a way to control her, and she wrote the sheriff of her local community to get back six days "that I lost along the way." Such a careful and persistent accounting of time accrued demonstrates perseverence as well as profound concern. While this inmate not only kept track of her time served and was able to resolve the discrepancy herself, few inmates have the means to pursue jail credit/good time matters to such a successful resolution.

Any challenge to length of sentence requires that an inmate have access not only to legal materials, but also to sentencing information. State commissioners were the only non-inmate group to correctly assess inmates' level of concern over jail credit/good time issues. It is unlikely that inmates are getting either the resources or the opportunities to challenge credits to their time served, since sentencing information may not be readily available and access to it does not appear to be seen as crucial by institutional administrators and staff and inmates' attorneys. One inmate who expressed a great deal of anger about her good time situation told researchers she had been promised good time for her institutional job and that it should have made her eligible for at least a month's early release. However, due to administrative processing she stood to get it too late to affect her scheduled release date.

Prison Programs

Inmates indicated they are very concerned about programs offered within the prisons, while non-inmate actors consistently underrated the women's concern with this specific issue. We found their lack of understanding as to the importance of programs to female inmates to be reflected in the number and quality of programs offered. Almost 75% of the inmates interviewed were not receiving any kind of job training at all. When asked if the institution in which she was incarcerated even offered job training programs, one inmate replied, "If they got it, it's news to me." Another inmate in the same facility said some of the job training opportunities were really nothing more than institutional jobs such as prison laundry. "Everybody," she said, "knows how to wash clothes."

Inmates also indicated frustration with the kinds of jobs offered them.

They saw themselves doing menial tasks that afforded little opportunity for learning new skills. One woman who worked on the grounds crew complained they cut the grass every day -- "It don't even get a chance to grow," she said. Summing up the frustration of many inmates over prison jobs, one woman said inmates wanted "anything that would educate us."

Educational programs are traditionally seen as an important part of rehabilitation, and almost half of the women interviewed were enrolled in classes in their institutions. While inmates often complained about the quality of the classes, more often than not administrative decisions about the classes were the focus of the criticisms. At one facility, an inmate who already had a high school diploma complained that the classes offered were geared toward inmates who needed G.E.D. level courses. "They're fine," she said of the classes, "for the younger set, but for the older population, they offer nothing." Most prison educational programs offer little beyond high school level courses, and at one institution an inmate spoke of the facility's pre-G.E.D. screening test. She said, "You have to take a test to be allowed to take the G.E.D. test...These women in here, a lot of them would pass the (G.E.D.) test. I think they (the administration) are scared that there won't be enough women in school for them to maintain the school going. So, I think they use the screening test as a reason to keep a lot of women in school." In 1978, she said, some inmates decided to cheat on the screening test so that they could take the G.E.D. test and get out of the prison's school program. Five women turned in identical answers to the questions, she said, but three were sent back to the school and only two were allowed to take the G.E.D. test.

Inmates interviewed expressed a high level of discontent -- and at times even outrage -- with the available medical care. One inmate explained,

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"...they don't care, and that's the honest truth...I know we're inmates, we're prisoners, but, you know, we got feelings, too. Yeah, okay, we did what we did to society, but we're doing our time for that...Okay, now you're getting us back. Don't mess up our health and what not just because we're in here. We realize we did mess up. This place is supposed to improve us? It's not doing nothing..."

Another told of finding cockroaches in the medical unit, while at another prison an inmate said that, despite the facility's being under court order for its medical unit, health care there is still "the pits." She went on to say, "That's one thing I've never understood. They put you in here to be rehabilitated, yet they break every law there is in the book. They stay in court -- the administration, the medical department, the police."

In discussing prison programs, inmates repeatedly expressed frustration over what they saw as a lack of rehabilitative opportunities. One woman said, "They call this rehabilitation. And they restrict you for this, and they restrict you for that, and they want to write you up for that and write you up for this and lock you up for that, telling you that they're trying to prepare you for the outside world. All of this punishment, and they're not offering you nothing to better yourself, for those who really want to." A state official, however, said, "The goal is not rehabilitation anymore, because it's not a real goal." His department's view, he said, is "inmates are in prison to be punished." He later said, "One of the most important things to our chief security person... is that the inmates have adequate programming, because an idle inmate is the most dangerous inmate that you could have."

The inmates interviewed know they are not receiving the kind of training and education that will be of use to them on the outside, and many were quite eloquent in expressing their dissatisfaction. However, while inmates were talking about inadequate rehabilitation opportunities, administrators were talking about "security" and "keeping the lid on." Until administrators recognize the level of concern and discontent that women in prison have over programs and conditions, these are likely to remain unresolved issues for women.

With good classes, challenging jobs and job training, inmates would gain not only skills for supporting themselves and their families upon release, but increased self-esteem and wider options for their lives in general. As one inmate said, with good programs "we could make good use of our time, rather than sitting there playing Scrabble or just watching the goings-on."

Appeals

Of all the categories, appeals is most clearly the one to be dealt with in the courts and is, therefore, the one for which resources and materials are most essential. Given a low level of resources, concern about appeals becomes remote; given the means necessary to file and follow through on appeals, it moves into the realm of possibility and takes on greater importance.

Female inmates attached a considerably higher level of importance to appeals than did non-inmate respondents who rated it low-medium to low. In fact, this was the issue most frequently underrated by non-inmate respondents, which could substantially affect provision of resources necessary to file appeals.

Administrators and attorneys perceive appeals as the primary concern of male inmates, who may express greater concern over this issue because they are, for the most part, serving longer sentences. Also, men have better access and better resources which facilitate legal activity. Women, on the other hand, lack the kinds of resources available to men and must also contend with child custody and other family matters which generally take precedence over other matters. Furthermore, women's convictions often end in plea bargains, and most of the women interviewed believed this prevented them from appealing either their sentences or their convictions.

Since appeals are traditionally a court-related concern, the factors outlined above -- poor resources, overriding concerns that have not been pursued in the courts, and misinformation about plea bargaining -- may explain, in part, the low level of litigation by female inmates. However, women repeatedly expressed the importance of appeals to them so that, given resources, alleviation of more critical concerns, and the knowledge that they can appeal, we believe this is a concern they would act upon.

Disciplinary Issues

The extent of concern inmates expressed over disciplinary matters was greater than the assessments of the other respondents, even though the latter saw this category as having more importance than categories inmates ranked higher. Again, we found that administrators who rightly saw disciplinary matters as important to inmates still underrated the extent of concern over these matters.

These results suggest two important phenomena. First, the extent of concern women have over disciplinary matters defies the stereotype that female inmates acquiesce to the conditions imposed on them. Secondly, administrators, in giving this category a high rating relative to other issues, apparently see women as more concerned with the less crucial internal problem of disciplinary matters than with the kinds of issues that require court action (e.g., appeals, job skills or institutional conditions).

Warrants and Detainers

Inmate and non-inmate respondents alike ranked warrants and detainers as the lowest legal need for women in prison. The only noteworthy exception was prison counselors who ranked this issue very highly. This is most likely due to the fact that inmates frequently talk to counselors about outstanding warrants and detainers in hopes that they can find out the status of previous charges.

Legal Concerns and Needs: Summary

In reviewing the assessments of inmates' concerns, we discovered an interesting trend. Non-inmate actors tend to give higher rankings to those issues that are most clearly within their own domain and not according to actual inmate needs. For example, lawyers, who are most directly involved in questions or actions related to appeals gave appeals the second highest rating, while inmates considered appeals a moderate concern. Commissioners and superintendents, who deal with inmate complaints about rules, procedures and infractions and who are sometimes called upon to adjudicate grievances, consider disciplinary matters an urgent matter, but inmates ranked three other issues as more pressing. It is also of interest to note that we found the sexual composition of a prison affects the level of awareness of women's needs, in that non-inmate respondents associated with the two all-women's prisons demonstrated the most accurate assessment of female inmates' legal needs. Unfortunately, it appears that such an understanding of needs does not necessarily translate into provision of resources to meet those needs. Of the two facilities with the best resources, we found one was coed and one was all-women.

As long as individuals within the criminal justice system focus only on issues of direct relevance to them, a myopic view of female inmates' concerns will persist and this will prohibit the system from responding to actual concerns. The women interviewed indicated clearly that all six categories of legal need are extremely important to them. It is likely that the type of issues they are most concerned about are not traditionally resolved in the courts and this could explain their low level of litigation. Furthermore, the high concern among male prisoners over appeals -- clearly an issue to be met in the courts -- explains in part their high level of litigation.

While we have discussed these needs in terms of their relative importance and have compared ratings by various respondents, it is crucial to recognize that all of the legal needs are of great concern. Inmates place greater emphasis on some issues than on others, but all of the concerns exist and imply a need for legal resources with which to meet them.

Legal Resources

Our discussion of legal resources covers not only material and personnel resources, but also support materials and rules governing access. Each facility visited varied in the quality, quantity and accessibility of resources. The only trends that emerged at all of the sites were that no one facility had adequate resources to meet inmates' needs and that each institution was missing an essential link in terms of resources. For example, at Institutions A and B, where resources were superior to those at C and D, inmates had very little phone access. This limited their ability to contact attorneys or to seek other outside assistance concerning internal or court-related legal needs. At Institution C, which had a large legal services program, the inmates did not know of the program's existence. That prison also had an ombudsman on site, but the inmates believed that person to be an administrator and, thus, were biased against him. Although the facility had a law library, the hours were not posted. Institution D had a legal collection -- however, limited -- yet the books were kept locked in a cabinet, and none of the inmates knew the library even had law books. The failure of the administrations to inform inmates of existing programs, available staff and regulations concerning resource availability made legal resources, where they existed, practically meaningless.

We found each system to be consistently lacking in some important aspect of its resources. If institutions had sophisticated legal materials, no introductory or explanatory guides were available to facilitate their use. On the other hand, if institutions provided only introductory legal books inmates were unable to do indepth research often necessary in pursuing cases. Where personnel were provided, inmates either did not know they existed or were unable to reach them. In facilities with ready access to telephones, there were poor resources for preparations to make legal calls fruitful. Even at prisons that appeared to have relatively adequate resources, vital links in the model which were necessary for productive legal action were absent.

We found the availability of resources in the facilities to be directly related to the length of sentences being served by the bulk of the inmate population. Institution D, which had the worst resources, had inmates serving overall the shortest sentences in the sample. Resources at the other prisons increased as average sentence lengths rose, with Institution B -- a maximum security facility -- having the best resources. The implication is that administrators confuse sentence length with the level of prisoners' needs, assuming that inmates with short sentences have fewer or less urgent needs and, therefore, require few resources. In addition, since sentence length is tied to the severity of a crime, inmates serving shorter sentences, having committed lesser crimes, are punished more harshly through lack of resources than are inmates convicted of serious crimes.

The evidence points to a correlation between inmate litigation and resource provision. The corrections department in State X, where Institutions A and B are located, has an average of 3,000 suits brought against it by inmates every year. Institution A was pressured into providing more resources to its female inmates when the women obtained legal counsel for the purpose of filing suit over the lack of resources. Inmates entering Institution B are given copies of two recent court decisions from successful inmate suits. These two facilities, A and B, have far superior legal resources than those at C and D. This reflects not only an administrative concern at A and B with legal resource provision, but also the amount of inmate litigation at the prisons.

We found none of the institutions studied to have legal resources which could be rated as adequate. Given the high level of concern and need among the women sampled, quality legal documents, support materials (such as xeroxing, notary, etc.), legal personnel trained in both civil and criminal matters, and knowledge of and access to these resources are essential, if inmates are not only to grasp their problems, but also confront them through either internal channels or the courts.

At institutions with seriously deficient resource provision, inmates cannot respond to their legal needs, and they ultimately experience a sense of futility in attempting to pursue resolution of their problems. This may be interpreted as passivity or lack of concern by administrators, which feeds a common argument against providing resources: why provide resources if the inmates don't care? Conversely, at institutions with relatively useful resources, inmates can at least attempt to resolve difficulties. If, in the process, they find certain materials to be insufficient, they are more likely to demand resources -- recall inmate efforts to get increased resources at Institution A. This, then, negates administrative arguments that inmates are passive and unconcerned and increases the likelihood of obtaining the needed resources. A vicious cycle exists: inmates need resources to demand the resources that they need.

Resource Availability and Utilization

It is evident that women in prison have many serious needs and are given inadequate resources with which to meet these needs. Despite the lack of quality resources, we found that some inmates make use of existing resources more extensively than do other inmates. Administrative attitudes, resources, institutional factors and inmate profiles all influence the probability for activism.

Our research indicated that each facility was a unique system with many components influencing resource availability and utilization. We found certain factors to be significant in determining resource utilization, yet we also discovered that it is the interaction of the components that influences activism. For example, both Institutions A and D housed women as well as men. At A we saw that the presence of men actually increased activism. The women not only received legal advice from male inmates, but as they could see how men's conditions were better, they actively fought discriminatory practices. At the other coed facility, D, there were so few women, and all but one serving very short sentences, that they were virtually ignored by the administration and had severely limited access to resources because of the much larger male prison population. Of two coed institutions, inmates in one were the most legally active and in the other the least legally active. This is an example of how factors -- such as the sexual composition of a prison population -- rarely operate independently in relation to inmate activism. Rather, many factors interact, sometimes having a cumulative effect, sometimes cancelling each other. In order to understand inmate activism, one must regard it in the context of a particular system.. To claim that a single factor is the determinant for activism would be an elliptic analysis, for each factor exists and operates within both a state and institutional system to either encourage positive action in relation to needs or to limit such action.

Referring to Table 14, page 164, we see how resources, administrative attitudes and inmates all contribute to the success of a system. For each institution, the six categories were very clearly ranked, demonstrating again, the interrelation between factors that determine resource provision and those that determine utilization.

Resource Availability

The availability of resources is related to administrative, institutional and external factors. Previously, we mentioned the apparent effect that lawsuits have on provision of legal resources. We have also consistently stated that resource utilization and availability are mutually dependent, which means where there is activism, there will be resources, and visa versa. Obviously, where inmates are active and require additional resources, the administrations will be aware of this need and will, hopefully, respond to it. In facilities where inmates have few resources to use for expressing needs, administrators do not perceive the inmates to have needs and, hence, do not provide sufficient materials or personnel. This is particularly true in prisons where inmates serve short sentences: resources are poor, inmates are inactive, and administrators interpret this inactivity as being passivity and lack of needs. Clearly, administrative attitudes towards the value of litigation have a large impact on availability of materials and personnel. Institutions A and B had both the best resources and the most concerned administrators. The degree to which inmates possess characteristics that we found to be associated with legal activism and the level of overall legal activity within an institution also influence resource availability. Activism leads to a demand for resources.

Resource Utilization

The incentives and the propensity for becoming legally active are important in understanding why women are less litigious than men. We have shown how specific institutional factors (poor resources, strict regulations, lack of assistance) can limit activism and, conversely, how other variables (litigation against a system, presence of trained personnel) can positively affect the level of activism. Referring again to Table 14, it is obvious that utilization is directly related to available resources, administrative attitudes and the prison inmate population's profile. Wherever legal activism received a high ranking within an institution, resources and administrative attitudes did as well.

The data indicate that there is a relationship between inmates' demographic and criminal history characteristics and whether inmates will actually use available resources. The finding that women who have had a great deal of involvement with the criminal justice system are less active was surprising, because we expected that the longer a woman's criminal history, the more knowledgeable and active she would be. In reality, recurrent incarcerations and convictions appear to adversely affect use of available legal materials and personnel. Another noteworthy aspect of inmates' criminal histories is that women do not become active until they have been incarcerated for at least six months and that the level of their activity decreases as their parole eligibility dates approach. The implication is that it takes several months to acclimatize to the system and that the fear of losing parole eligibility limits activism. It could also be that the urgency to act on concerns decreases relative to the amount of time left until release, just as women with short sentences tend to be less active, although certainly not less concerned.

Women who are legally active are well-educated, have held jobs on the outside and demonstrate more knowledge and sophistication than less active inmates. This was particularly evident in the case of Institution A where the overall inmate sample profile largely overlapped with the legally active profile. Institution A had the greatest amount of legal activity, although resources there were inferior to those at Institution B.

Another factor we conclude to be important is the level of cohesiveness among the women. This was shown quite clearly in Institution A, where inmates not only demonstrated a high level of communication among themselves, but had actually joined together to challenge the administration's failure to provide adequate resources. Where the women had an issue to organize around, activism was high. In contrast, inmates in Institutions C and D demonstrated little cohesiveness. This was due, in part, to their short sentences and the consequent turnover in the population. The inmate serving the longest sentence at D complained that she could never get the other inmates to help her fight for programs, because none of them stayed for more than a few months. Therefore, it is clear that the absence of resource tools and a lack of cohesiveness limit resource utilization.

We expected institution size, location, and security classification and inmate population sexual composition would also play a role in resource availability and utilization. It was clear that the non-inmate respondents involved with the two female prisons (Institutions B and C) were the most aware of inmates' concerns. This knowledge, however, did not appear to affect resource availability, since C had extremely poor resources. In fact, though administrators of female institutions may be more aware of inmates' needs, better resources were found at Institution A, a coed prison. Furthermore, it appears the women at A use available resources more because they are spurred to action by observing privileges male inmates enjoy.

The proximity of facilities to urban areas did not affect levels of resource utilization. We found that the most isolated prison had the highest level of legal activity, and the most urban institution had the second highest.

Returning to the original question -- why are women in prison less litigious than men -- it becomes clear that a number of variables are involved. We have shown that women have many legal needs and that they lack access to adequate resources with which to meet those needs. The women we found to be legally active tend to have had at least a relative degree of power and control in their lives prior to incarceration, are facing long sentences, and are serving time in prisons with more adequate resources and administrators who recognize the validity of legal activism. In contrast, officials in prisons with an overall low level of legal activism demonstrate less concern for female inmates' needs and thus contribute to inmates' inability to resolve their problems. Clearly, internal factors -- resources, administrative attitudes, and inmate characteristics -- and external factors -- litigation against a prison, presence of outside legal personnel -- influence both use and availability of legal resources. In conclusion, we have observed that it is not a lack of concern that limits activism, but a lack of resources stemming from the criminal justice system's failure to properly assess the needs of women in prison. Its consequent failure to provide resources relative to inmates' real needs creates passivity and feeds continued administrative negligence.

Recommendations

In light of our findings, certain recommendations can be made toward the resolution of some of the pressing problems expressed by the women we interviewed. In presenting these recommendations, one caveat must be made: we do not see use of the courts as the sole or ideal forum for resolving legal needs.

We have seen that administrators consistently lack a clear picture of the needs of the women in the prisons they administer. This, we found, results in inadequate provision of resources and a form of administrative neglect which, in turn, promotes the very passivity that superintendents and program officers use to justify their low investment in resource provision. Our first recommendation, then, must be for a clearer channel of communication between inmates and administrators, so that real legal needs are considered, as opposed to distortedly perceived ones. This cannot be done easily or quickly, given the political and budgetary pressures on prison administrators, but it is a key first step. The less obvious part of this process is for inmates to become more aware of the restraints placed on the administrators they perceive as not caring about and not responding to the needs of their "captive audience." Administrators who complain that women inmates don't respond to program and resource offerings the way men do must also look to their own policies. It appears that at both the state and institutional levels these policies contribute to that which they were designed to alleviate -- passivity, boredom, inactivity. It has been too easy to lay the blame on the inmates.

Women inmates told our interviewers repeatedly that they are as concerned as men about their legal rights, but that they are less likely to take action in regard to them. Invariably, however, they added that this is changing. They see themselves becoming more involved in fighting for their legal rights.

Our second recommendation is that, in providing resources, administrators in corrections systems and in individual prisons be made aware that resources consist of more than merely books and lawyers. Support services and personnel, information on programs and guaranteed access must be seen as part of the provision process. Inmates exist within a highly structured system over which they exert little control. It is the responsibility of the facilities to provide precise and accurate information about legal projects available to inmates and their scheduled visits, as well as procedures for resolving problems through internal mechanisms, such as grievance procedures. Changes should be made in telephone procedures to ensure that inmate-attorney calls can be placed at reasonable hours, during attorney office hours, and that they are not counted in an inmate's telephone call quota each month. It places unnecessary strain on an inmate to have to choose between calling her family and calling an attorney, since both may represent avenues for resolving legal needs. Finally, arrangements should be made so that at least initial contact with attorneys not be made through collect calls. As one inmate said, "I can't very well try and hire a new lawyer and call him collect."

As we have mentioned, a single missing link in a system ostensibly designed to facilitate legal resource utilization can render the entire system ineffective or, at best, much less effective than intended. To properly assess an operating system of provision, an institution should examine the wide range of factors considered by this project, as detailed in Chapter Five. Each system we assessed broke down at one point or other. We recommend that facilities examine their system's provision of legal resources as it functions, not as it is designed to function, to determine how and why it is not working.

Finally, we recommend that the criminal justice system recognize that the traditional view of female inmates is invalid, that the needs of women in prison are evolving and that appropriate responses must be made to these changes. It is not enough to cite budgetary and political considerations as justification for continuing inequitable provision of resources and access to female inmates. The women we interviewed were willing to talk about their needs, but felt no one was listening. As one inmate said, "We don't get anywhere. We talk to people, we write letters. It seems that they (administrators) just want to forget we're here. You know, don't bother with us at all." The project was warned before going into one system that the interview design appeared to encourage women's "bitching sessions." Women in prison must be heard, and their concerns must be taken seriously.

If, as one official said, the aim is to "keep the lid on," inmate problems must be alleviated, either externally through the court system or internally through alternatives to litigation such as grievance procedures, mediation projects and negotiation between administrators and inmates. The pressures and frustrations women inmates are now expressing have caused male prisons to explode violently over the last two decades. We found the issues of women in prison to be much the same as those of men. Since there are so few female inmates within state systems, there exists an opportunity to attempt alternative means of resolving problems, and we encourage further examination of this potential.

Unfortunately, many female inmates still turn their inability to alleviate their problems into an angry passivity and continue to express fear of administrative reprisal for legal activism. We found several cases where inmates claimed prison officials went beyond mere neglect and actually instituted policies designed to thwart activism. This is not to say that women are not active or that they are not becoming more active. On the contrary, the percent of institutions with female jailhouse lawyers rose from 14 percent to 75 percent between 1970 and 1980, indicating that activism among women in prison is, indeed, on the rise.

The impact of legal activism is not lost on departments of corrections. While most administrators said they thought the majority of inmate suits were unnecessary, their importance is clear. One state official said, "Lawsuits affect the department and change the kinds of policies the department has. People don't want to change, especially corrections. We're talking about a para-military operation."

The nature of the system in which they are confined is not lost on female inmates. One inmate said that being incarcerated makes women third class citizens: they're second class because they are women and third class because they're prisoners. Another said, "The first thing they tell you when you come in here is that you have no rights, and they make sure you don't."

Women we interviewed continually talked about the punitive nature, as opposed to the rehabilitative nature, of the facilities. "You just keep paying for the same crime over and over again," an inmate said, "You know you've done wrong, and you've been sentenced as your punishment, but you have to keep paying before you ever get a chance to prove yourself." An inmate quoted earlier may sum up the experience of women in prison and, at the same time, provide an insight into their lack of litigiousness: "All this punishment, and they're not offering you nothing to help yourself, for those who really want to."

FOOTNOTES

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30. Glick and Neto.

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RESEARCH AND WRITING TEAM

Biographical Notes

KATHLEEN ENGEL is currently researching violence in prisons. In her position as researcher with the Legal Issues of Female Inmates Project, she participated in the development of the instruments, conducted interviews, analyzed data, and, as a member of the writing team, wrote major portions of the final report.

A graduate in Government from Smith College, she has done extensive research on issues related to incarceration while working as a staff assistant with the National Moratorium on Prison Construction and as a research assistant with the Smith College Project on Women and Social Change. Her current research project is an investigation of the relationship of the rehabilitation movement to increased prison violence. Ms. Engel has presented her research on prisons throughout the Northampton, Massachusetts community. She is an active member of Amnesty International and coordinates a feminist anti-pornography collective.

DEAN KATHERINE GABEL, the principal investigator of this project, received her master of social work degree from Simmons College, her doctorate from Syracuse University where she majored in criminology, and her law degree from Albany Law School. She has had extensive experience in criminal justice administration, teaching and research. Her interests lie predominantly, but not exclusively, with issues relating to women in the criminal justice system. As a previous superintendent of correctional institutions in Georgia and Arizona she brings the advantages of being able to understand the problems and issues of correctional administration, particularly those related to institutions for females. Her doctoral dissertation was on the issues of prison administration and she has served and continues to serve on numerous committees and organizations related to corrections, criminal justice and social work issues.

BERTHA JOSEPHSON is a feminist attorney, currently practicing as a member of the Northampton (Mass.) Law Collective. As senior researcher with this project, she designed and carried out the legal resource assessment component of the research and conducted almost half of the inmate interviews. Upon completion of the data collection, she joined the report-writing team in compiling this report.

A graduate of Western New England College School of Law, she did her undergraduate work at Skidmore College, receiving her B.A. in 1975. She has been admitted to practice before the Massachusetts and Federal Bars. Prior to joining the project team, Ms. Josephson practiced law in Springfield, Massachusetts and devoted much of her energies to the battered women's shelters in the area.

ERIKA KATES is a doctoral candidate at the Florence Heller School of Advanced Social Welfare, Brandeis University. She served as project director for the initial phases of this project, developing the research proposal, the research instruments, conducting interviews, coordinating data collection, and drafting introductory portions of this report.

Ms. Kates has her master's degree in Urban and Regional Planning from the Architectural Association, London. She has worked with program development and evaluation at both Boston University School of Social Work and Florence Heller School, Brandeis University, and served as Director of a project on Diversion of Female Offenders, funded through the Justice Resource Institute, Boston. In addition, she has been criminal justice planner and senior planner for Eastern Middlesex County and for the city of Lawrence, Massachusetts, where she planned and monitored LEAA-funded projects.

ANGELIKA ROBERTSON is Director of the Research and Development Center of the Smith College School for Social Work. Initially, she served as consultant on issues of measurement and design for the Legal Issues of Female Inmates Project. After data collection was completed, she joined the project team as senior researcher, directing the data analyses and carrying primary responsibility for the structure and writing of this report.

Ms. Robertson received her doctorate in education from the University of Massachusetts/Amherst, where she concentrated on educational and developmental psychology, women's issues, and research methodology. In her current position she develops and carries out various research, fund-raising, and publication ventures of the Smith College School for Social Work. She also serves as advisor to students and as consultant to faculty for research issues. She has conducted a number of evaluation studies on social work education and practice.

JUDITH SCHENCK is currently working as research assistant for the Family Life Study Project at the Smith College School for Social Work. As office coordinator for the Legal Issues of Female Inmates Project, she organized data for analysis, created the computer codebook, provided support services to the researchers, and was a member of the writing team for this report.

A journalism graduate of Samford University, Birmingham, Alabama, she has extensive experience in writing and editing. In addition to her work with several newspapers and the publications offices at Yale University and the University of North Carolina Memorial Hospital, she has worked on several projects. At the University of Massachusetts/Amherst, she worked with a project examining the impact of legal education on law students and with another which provided training to university women's centers' staffs.

INMATE QUESTIONNAIRE

Institution: ______________________ Interviewier: ______________

Respondent # ______________ Date: __________ E.G.: ______________

I would like to talk to you about some of the problems you may face while you are here, and to get some idea of whether or not you have tried to get some legal help for those problems.

Let's talk a little about your time here first, so I learn something about you. If you have any questions for me, just ask.

1. How long have you been here?

less than 6 mo.	01
6 - 11 mos.	02
1 - 2 yrs.	03
3 - 5 yrs.	04
6 - 9 yrs.	05
10 - 19 yrs.	06
20+ yrs.	07

2. How much time to you still have to serve of your sentence?

less than 6 mo.	01
6 - 11 mos.	02
1 - 2 yrs.	03
3 - 5 yrs.	04
6 - 9 yrs.	05
10 - 19 yrs.	06
20+ yrs.	07

3. What is your earliest parole date?

less than 6 mo.	01
6 - 11 mos.	02
1 - 2 yrs.	03
3 - 5 yrs.	04
6 - 9 yrs.	05
10 - 19 yrs.	06
20+ yrs.	07
don't know	77

4. Do you have a job here?

yes	01
no	02

[If no, skip to #18]

5. What do you do?

institutional sewing	01
institutional maint.	02
institutional food serv	03

6. How long have you been doing that job?

less than 6 mo.	01
6 - 11 mos.	02
1 - 2 yrs.	03
3 - 5 yrs.	04
6 - 9 yrs.	05
10 - 19 yrs.	06
20+ yrs.	07

7. How many hrs. a day do you work?

2 hrs. or less	01
3 or 4 hrs.	02
5 or 6 hrs.	03
7 or 8 hrs.	04
other	88

8. Are you paid for this job?

yes	01
no	02

9. How much are you paid?

less than 50¢/day	01
50¢ - 74¢/day	02
75¢ - 99¢/day	03
$1 - $1.50/day	04
$2+/day	05

10. Can you buy the basic things you need with this pay?

no	01
barely sufficient	02
sufficient	03
very sufficient	04

11. Does anyone send you money?

yes	01
no	02

12. Do you manage to save any money for release?

yes	01
no	02

13. Do you get good time for your job?

yes	01
no	02

14. How much good time have you earned?

less than 1 day	01
1 - 4 days	02
5 - 9 days	03
10 - 20 days	04
21 - 40 days	05
41 - 74 days	06
75+ days	07

15. Is there another job you would prefer to do here?

yes	01
no	02
don't know/not sure	77

16. What job would you prefer?

instit. sewing	01
instit. maintenance	02
instit. food service	03
clerical work	04
computer/data process.	05

17. Why are you not doing that job now?

no openings/ waiting list	01
lack of ed. require.	02
have to know right people	03
have to be here longer	04
don't know	77

18. What do you think of the jobs here?

no problem w/ jobs	01
boring/don't learn anything	02
not geared to needs on outside	03
not enough options	04
don't know	77

19. What kinds of job would you like to have here?

traditional	01
non-traditional	02
don't know	77

20. Do you think women get the same kind of jobs men do while in prison?

yes	01
no	02
don't know	77

21. Are you getting any job training?

yes	01
no	02

21. What kind of job training are you getting?

clerical	01
medical aide	02
cosmetology	03
computer/data process.	04
food serv./restaurant	05
auto mechanics	06
carpentry, electricity, other non-trad.	07

22. Are you taking any classes now?

yes	01
no	02

23. What class are you taking?

G.E.D. level	01
math	02
English	03
reading	04
writing	05
college level course	06

24. Have you ever taken classes here?

yes	01
no	02

25. What do you think of the classes offered here?

not good	01
good/okay	02
very good	03
don't know	77

26. What improvement can you think of for classes offered?

more college level	01
offered more often	02
better teachers	03
better materials	04
more topics	05
don't know	77

27. What do you think of the medical care?

very bad	01
bad	02
fair	03
good	04
very good	05
don't know	77

28. Have you ever had any health problems?

[If no, skip to # 32]

yes	01
no	02

29. What?

ob/gyn	01
mental health	02
back	03
legs	04
headaches	05

30. Who treated you?

nurse	01
doctor	02
nearby hospital	03

31. What happened?

Okay, now we come to some questions about yourself...

32. How old are you?

33. Are you...

single	01
married	02
divorced	03
separated	04
widowed	05

34. What was the last grade at schcol that you completed?

6th grade or less	01
7th - 9th grade	02
10th - 11th grade	03
12th grade	04
some college	05
graduated college	06

35. Do you have a G.E.D. or equivalent?

yes	01
no	02

36. How did you support yourself on the outside?

part-time job	01
full-time job	02
male support	03
AFDC	04
other state assistance	05
illegal activity	06

(If no job, skip to # 40)

37. (If job) What kind of work did you do?

factory work	01
waitressing/food serv.	02
clerical/office work	03
other pink collar work	04
semi-skilled	05
skilled	06

38. How long did you do that kind of work?

less than 6 mos.	01
6 mo. - 11 mos.	02
1 - 2 yrs.	03
2 - 5 yrs.	04
6+ yrs.	05

39. Did you like that work?

yes	01
no	02

This may be difficult for you to talk about, but I would like to ask you some questions about your children.

40. How many children do you have?

none	0
one	01
two	02
three	03
four or more	04

[If no children, skip to #58]

41. How old are they?

child one
child two
child three
child four

42. Were they living with you before you came here?

no	01
yes, foster home	02
with mother's family	03
with father	04
with father's family	05

43. Where did they go when you came here?

stayed where they were	01
changed to mother's family	02
changed to father	03
changed to father's family	04
changed to foster family	05
changed to adoptive family	06
changed to instit.	07
child no longer living	08
don't know	77

44. Was a social worker involved in these arrangements?

yes	01
no	02
don't know	77

45. Are you satisfied with the arrangements?

yes	01
okay, some problems	02
no	03

46. (If no) What is the problem?

visiting	01
child not being well cared for	02
not enough information	03
fear of foster parent replacing her	04
too many changes	05
in trouble with cts.	06

47. What is happening about this?

nothing	01
talked w/ social worker here	02
talked w/ DPW, DSS	03
talked w/ person caring for child	04
tried to contact atty	05
contacted group that deals w/ inmate mothers' problems	06

48. Who has legal custody now?

mother does	01
mother's family	02
father	03
father's family	04
juvenile ct., DPW	05
adoptive family	06
don't know	77

49. Did you sign anything about custody?

yes	01
no	02

50. Do your children know you are here?

yes	01
no	02
think I'm in hospital	03
think I've gone away	04
don't know	77

51. Do your children visit you?

[If no, skip to #58]

yes	01
no	02

52. How often do they visit?

once a wk. or more	01
twice a month	02
once a month	03
once every 2 mos.	04
once every 3 - 6 mos.	05
twice a yr. or less	06
sporadically	07

53. Who brings them?

member of mother's family	01
father or member of his family	02
friend	03
social worker	04
volunteer w/ inmate mothers' group	05
member of foster family	06

54. How do they get here?

private car	01
state/agency car	02
public transportation	03
taxi	04

55. Have you had any problems around the child/ren's visits?

no	01
yes, visits aren't long enough	02
no good place to visit	03
no physical contact	04
no privacy w/ child	05

56. (If child/ren doesn't/don't visit) Have you ever tried to have them visit you?

yes	01
no	02

57. What happened?

visiting hrs. are inconvenient	01
no one could bring them	02
custody case in process	03
children get upset	04
mother gets upset	05
don't know	77

58. Okay, we've been talking about jobs, education, health and children. Would you say that your needs overall in these areas are greater than other women here, or less than other women here?

greater than	01
same	02
less than	03
don't know	77

Now I would like to ask you about your experience with lawyers, but first I need to know a little about your legal situation.

59. How many lawyers did you see from the time of your arrest to your conviction?

one	01
two	02
three or more	03

60. When you were in court, what type of lawyer(s) represented you?

private attorney	01
public defender	02
ct.-apptointed atty	03
don't know	77

61. How did you feel about that lawyer?

very unsatisfactory	01
less than satisfactory	02
satisfactory	03

[Additional comments]

62. Do you think that your lawyer(s) did everything that could have been done for you?

yes	01
no	02
don't know	77

63. What else could have been done?

64. Did your case end in a plea bargain?

yes	01
no	02

65. Did you file an appeal?

yes	01
no	02

66. Why not?

67. While you have been here, have you ever needed to contact a lawyer?

yes	01
no	02

[If no, skip to #71]

68. Were you able to get one?

yes	01
no	02

69. How did you find your lawyer?

referred by friends	01
local bar association	02
prisoners' rts. group	03
legal aid/assistance	04
phone book	05
social worker	06

70. Are you satisfied with your lawyer?

yes	01
no	02

71. (If never tried to contact lawyer) How would you go about finding a lawyer if you needed one?

ask friends inside	01
ask friends outside	02
ask social worker	03
ask law librarian	04
ask family to find one	05
look in phone book	06
don't know	77

72. If there were a lawyer here now, would you have any questions for him/her?

yes	01
no	02
don't know	77

73. What would you ask about?

child custody issues	01
civil case (divorce, small claims, etc.)	02
appeal	03
prison conditions	04
parole, other release matters	05
outstanding warrants, detainers	06
transfer	07

74. Have you ever writtne to the judge who sentenced you?

yes	01
no	02

[If no, skip to #77]

75. About what?

76. What happened?

77. Given your past experience with lawyers, how much confidence do you have in them now?

no confidence	01
some confidence	02
a lot of confidence	03

78. Have you been before the parole board?

yes	01
no	02

79. What happened?

80. Are you eligible for furlough?

yes	01
no	02
don't know	77

81. (If no) Why not?

not here long enough	01
sentence doesn't allow for furloughs	02
inmate status doesn't allow for furloughs	03
instit. doesn't have furloughs	04
don't know	77

82. Have you taken any furloughs?

yes	01
no	02

83. Are you eligible for a pre-release program?

yes	01
no	02
don't know	77

84. (If no) Why not?

instit. doesn't have pre-release programs	01
not here long enough	02
sentence doesn't allow for pre-release	03
inmate status doesn't allow for pre-release	04
don't know	77

85. Are there any outstanding warrants or detainers on you?

yes, out-of-state	01
yes, in-state	02
no	03
don't know	77

[If no, skip to #88]

86. What are you doing about this?

requested help from lawyer	01
requested help from social worker	02
nothing	03

87. Do you know how you could find out?

yes	01
no	02

88. Are you in here as a result of parole revocation?

[If no, skip to #90]

yes	01
no	02

89. What rule did you break?

drinking	01
keeping company w/ wrong people	02
being in wrong place	03
not getting a job	04
not going to school	05

Here is a card of the different types of problems which you may experience while you are here. How important is each of the following issues to you?

			Very Unimp.				Very Imp.	Women Concerned	Rank
90.	a)	child custody & family matters	1	2	3	4	5	%	
	b)	appeals to conviction, sentences	1	2	3	4	5	%	
	c)	prison programs	1	2	3	4	5	%	
	d)	disciplinary matters	1	2	3	4	5	%	
	e)	detainers, outstanding warrants	1	2	3	4	5	%	
	f)	jail credit time, good time	1	2	3	4	5	%	

91. If you had to guess how many of the women here are concerned with these issues, would you say under 25% were concerned, 25% - 50%, 50% - 75%, or over 75% were concerned?

92. In your opinion, which of these problems do you think is the most important, which is the next most important, and which would you rank as third in importance?

Now I would like to ask you some questions about the other ways in which you may have tried to get legal help.

93. Are there any problems with using a telephone to call a lawyer?

yes	01
no	02
don't know	77

94. Have you ever used the law library here?

no law library	01
yes	02
no	03

95. Do you think the law library has all the materials it should have?

yes	01
no	02
don't know	

96. (If no) What else do you think it should have?

97. Have you ever seen prison newspapers from either this or other prisons?

yes	01
no	02
don't know	77

98. Are there trained people in the law library who can help you answer a legal question?

yes	01
no	02
don't know	77

99. What hours is the law library open?

mornings	01
afternoons	02
all day	03
evenings	04
irregular hours	05
open upon request	06
don't know	77

100. Is this enough?

yes	01
no	02
don't know	77

101. How often should the library be open?

mornings	01
afternoons	02
all day	03
evenings	04
upon request	05
don't know	06

102. Are women in segregation or max allowed to get books from the law library?

yes	01
no	02
don't know	77

103. Have you ever been in segregation or max?

[If no, skip to #106]

yes	01
no	02

104. Did you ask for legal help?

[If no, skip to #106]

yes	01
no	02

105. What happened?

talked w/ law librarian	01
talked w/ inmate legal clerk/jailhouse lawyer	02
talked w/ attorney	03
denied legal assistance	04

106. Are women ever given a hard time for trying to find out about their rights or trying to do something about them?

yes	01
no	02
don't know	77

107. Are there jailhouse lawyers/writ writers here?

yes	01
no	02
don't know	77

[If an activist, skip to #115]

108. Have you ever asked another woman inmate here for legal advice?

yes	01
no	02

[If no, skp to #111]

109. Would the woman you asked for legal advice help anyone who asked her?

yes	01
no	02
don't know	77

110. What happened when you asked the inmate for legal advice?

no help	01
gave me advice/info	02
gave me support	03
referred me to atty	04
helped me w/ documents	05

111. Do you know of situations where inmates have gotten together on a problem and put a legal case together?

yes	01
no	

112. (If yes) What happened?

inmates very successful	01
inmates somewhat successful	02
inmates unsuccessful	03
don't know	77

113. Has a social worker every been helpful to you in a legal matter?

yes	01
no	02

114. (If yes) In what way?

gave me advice/info	01
gave me support	02
referred me to atty	03

115. Are there any formal grievance procedures here?

yes	01
no	02
don't know	77

[If no, skip to #118]

Have you ever used the grievance procedures?

yes	01
no	02

117. (If yes) What happened?

grievance resolved completely	01
grievance resolved partially	02
grievance not resolved	03
got into trouble	04
staff were very fair	05

Here are some questions about prisoners' legal rights.

118. Do prisoners have the right to have the use of a law library or of legal personnel?

yes	01
no	02
don't know	77

119. Do prisoners have the right to write their lawyers without the prison authorities seeing the letters?

yes	01
no	02
don't know	77

120. Can prison authorities prevent inmates from giving legal help to each other?

yes	01
no	02
don't know	77

Now I'm going to describe some imaginary situations which may or may not be familiar to you. Please tell me what your reactions would be if you were involved. This is not a test. I'd just like to get an idea of your reactions...

Response options

1 try to forget about it
2 feel upset, but keep it to myself
3 lose my temper
4 talk it over with a friend here
5 contact someone close on the outside
6 talk to a social worker
7 use a grievance procedure
8 take some other action to find out what my rights are
9 contact a lawyer

121. Imagine you have just arrived here, and you are worried because you are not sure if you should appeal your sentence or not. Would you...

1
2
3
4
5
6
7
8
9

122. Imagine that you suspect your child may be moved from a friend's home by the welfare department, and you feel that this is not in the child's best interest. Would you...

1
2
3
4
5
6
7
8
9

123. Imagine that your child has been to visit you a few times by a social worker, but you have not seen him or her for a while, and you are worried. Would you...

1
2
3
4
5
6
7
8
9

124. Imagine you have developed a bad pain in your abdomen which has lasted several weeks. Aspirin and bed rest do not appear to help, and the doctor does not appear to be interested. Would you...

1
2
3
4
5
6
7
8
9

125. Imagine you are not interested in the job skills you are learning here, and you would like to learn something else which will pay better money when you are released. Would you...

1
2
3
4
5
6
7
8
9

126. You are nearing your parole release date, and you are very worried that there may be outstanding warrants or detainers on you. Would you...

1
2
3
4
5
6
7
8
9

127. Imagine you have just been given a disciplinary report, and you think this is an unfair situation. Would you...

1
2
3
4
5
6
7
8
9

I have just a few more questions for you. Thank you for cooperating so well so far. Now I'm going to read you some statements. Just tell me if you agree or disagree. There are no right or wrong answers. I just want to know your opinion.

128.	[ROTTER SCALE ITEMS]	Agree	Disagree
a)	Becoming a success is a matter of hard work; luck has little or nothing to do with it.	1	2
b)	The best way to handle problems of discrimination is for each individual black person to make sure he/she gets the best possible training for what he/she wants to do.	1	2
c)	People are lonely because they don't try to be friendly.	1	2
d)	Many time I feel that I have little influence over the things that happen to me.	1	2
e)	Getting a good job depends mainly on being in the right place at the right time.	1	2
f)	Knowing the right people is important in deciding whether a person will get ahead.	1	2
g)	One of the major reasons we have wars is because people don't take enough interest in politics.	1	2
h)	It's hard to know why some people get leadership positions and others don't; ability doesn't seem to be the important factor.	1	2
i)	We'll never completely get rid of discrimination. It's part of human nature.	1	2
j)	People will get ahead in life if they have the goods and do a good job. Knowing the right people has nothing to do with it.	1	2

You've really been helpful so far. Just a few more general questions and we'll be done.

129. If you were to guess, would you say that women in prison are as concerned with their legal rights as men are?

yes	01
no	02
don't know	77

130. Do you think women are as likely as men to actually take some action concerning their legal rights?

yes	01
no	02
don't know	77

131. Do you think that women in prison are more likely than men to listen to the authorities and obey the rules, even if they think they are unfair?

yes	01
no	02
don't know	77

132. As far as women's prisons go, do you think this is one of the best, one of the worst, or in between?

one of best	01
in between	02
one of worst	03
don't know	77

133. What do you think is the single most important issue in prison for women?

You have been very helpful. Thank you. Are there any questions or comments you have for me?

INSTITUTION: ________________ Interviewer ________ INMATE QUESTIONNAIRE 20
LEGAL ACTIVIST QUESTIONS
RESPONDENT # __________ DATE _________ E.G. _____

I understand that you have some legal expertise, so I have a few extra questions for you.

[Ask questions 1 - 9 if not already answered in main body of inmate questionnaire]

1. How long have you been involved in legal work?

2. How did you become involved in it?

3. Did you have any training for the kind of work you are doing?

yes 01
no 02

[In no, skip to]

4. (If yes) What kind?

5. (If yes) By whom?

6. (If yes) How long did it take?

7. (If yes) How long ago?

8. (If yes) Did you think the training was adequate?

yes 01
no 02

9. What could be improved?

d. availability of notaries
yes 01
no 02

15. Are you able to obtain materials from the outside which you request?
yes 01
no 02

16. Do you have access to prison publications?
yes 01
no 02

17. Which do you find most useful?

18. Do you think there are enough legal materials written so prisoners can easily understand them?
yes 01
no 02

19. Can you suggest other materials or other resources which would be helpful to prisoners?

20. What in your opinion is essential to improvement of the legal services to the women here?

21. Do you think women make sufficient use of the legal assistance which is available to them?
yes 01
no 02

22. What are the reasons for this?

23. Are there women here whom you think have legal questions or problems who do not seek help?
yes 01
no 02

24. Why do you think this is?

10. Do you help other inmates?

yes 01
no 02

11. When a woman needs legal help how does she contact you?

12. About how many women seek your help in an average week?

13. Which of the following kinds of help do you give?

a) give legal information and advice
yes 01
no 02

b) help women do their own legal research
yes 01
no 02

c) help with filling out forms/documents
yes 01
no 02

d) get extra information inmates need
yes 01
no 02

e) refer women to attorneys on the outside
yes 01
no 02

f) appear with inmates at hearings inside
yes 01
no 02

g) assist in pleadings for a pro se suit
yes 01
no 02

h) (specifiy)______________________________
yes 01
no 02

14. What are the rules regarding the following:

a) duplicating materials/cost

b) correspondence/stamps restricted list

c) use of typewriters

SUPERINTENDENT QUESTIONNAIRE

Institution: ______________________________ Interviewer: __________

Date: ______________________________ E.G.: ______________

Thank you for allowing us to interview you. As you know, the focus of our research is on inmates' legal concerns and the availability of legal resources. But first I would like to ask you some general questions which will help give me a sense of the nature of your job and also a sense of the directions in which you see this institution moving.

1. How long have you been Superintendent?

less than 6 mo.	01
6 mo. - 1 yr.	02
1 - 4 yrs.	03
5 - 9 yrs.	04
10+ yrs.	05
missing	99

2. How long have you been in this institution?

less than 6 mo.	01
6 mo. - 1 yr.	02
1 - 4 yrs.	03
5 - 9 yrs.	04
10+ yrs.	05
missing	99

3. What position did you have prior to this?

Deputy Supt./ upper admin.	01
Prison social worker	02
Prison officer	03
other	88
missing	99

4. How long have you been in the field of corrections?

1 yr. or less	01
2 - 4 yrs.	02
5 - 9 yrs.	03
10+ yrs.	04
other	88
missing	99

5. What activities require the greatest amount of your time?

budgets	01
planning, prog. devl.	02
day-to-day operation	03
security	04
staff meetings	05
other ______________	88
missing	99

6. When you took this job, what were the major objectives you wanted to accomplish?

[PROBE: Any others?]

missing	99

7. Have you been able to accomplish as much as you had hoped?

yes, fully	01
yes, partially	02
no	03
don't know/not sure	77
missing	88

8. Why do you think this is?

funding	01
depart. political support	02
staff/morale	03
time	04
inmates' issues	05
don't know/not sure	77
other	88
missing	77

9. Has your perception of priorities for your institution changed since you've been here?

yes, very much	01
yes, a little	02
no	03
don't know/not sure	77
missing	99

10. In what ways? Why?

11. In your last budget recommendations, did you recommend increased funding for any areas?

no	01
yes, staff	02
yes, programs	03
yes, security	04
yes, bldgs/maintenance	05
yes, legal	06
other	88
missing	99

12. What were the reasons for those recommendations?

13. Did you recommend decreased funding for any areas?

no	01
yes, staff	02
yes, programs	03
yes, security	04
yes, bldgs/maintenance	05
yes, legal	06
other	88
missing	99

14. Why?

15. How much discretion do you have in allocating funds in this institution?

large amount	01
some	02
very little	03
none	04
other	88
missing	99

16. How much is spent on legal resources for inmates each year?

$0	01
$1 - $2499	02
$2500 - $4999	03
$5000 - $9999	04
$10,000+	05
don't know	77
missing	99

17. Is there a specific line item in your budget for law libraries?

yes, D.O.C.	01
no, D.O.C.	02
yes, supt.	03
no, supt.	04
neither	05
both	06
missing	99

18. Is there one for legal personnel of any sort?

yes, D.O.C.	01
no, D.O.C.	02
yes, supt.	03
no, supt.	04
neither	05
both	06

19. **Does the institution have any written policites or guidelines concerning the provision of legal resources to inmates?**

yes	01
no	02
don't know/not sure	77
other	88
missing	99

[If no, go to #25]

20. (If yes) Can you outline the main points for me?

21. (If yes) How long have they been in existence?

less than 1 yr.	01
2 - 4 yrs.	02
5+ yrs.	03
missing	99

22. (If yes) What was the impetus behind establishing these guidelines?

inmates' demands	02
D.O.C. decision	03
federal decision	04
don't know/not sure	77
other	88
missing	99

23. (If yes) Do you think these guidelines and policies are useful?

yes	01
no	02
somewhat	03
missing	99

24. (If yes) Why?

25. (If no) Do you have any plans to institute written policies and guidelines?

yes	01
no	02
missing	99

26. To the best of your knowledge, which of the following legal personnel are available to inmates here?

a) institutional attorney?	always available	01
	sometimes available	02
	never available	03
	don't know	88
	missing	99
b) private attorneys?	always	01
	sometimes	02
	never	03
	don't know	88
	missing	99
c) law students?	always	01
	sometimes	02
	never	03
	don't know	88
	missing	99
d) prisoners rights attorneys?	always	01
	sometimes	02
	never	03
	don't know	88
	missing	99
e) court-appointed attorney/public defender?	always	01
	sometimes	02
	never	03
	don't know	88
	missing	99
f) jailhouse lawyer?	always	01
	sometimes	02
(how many?)	never	03
	don't know	88
	missing	99
g) any other legal personnel?		
	always	01
	sometimes	02
	never	03
	don't know	88
	missing	99

27. What percentage of female inmates would you estimate use the following:

a) institutional attorney?	under 25%	01
	25% - 50%	02
	50% - 75%	03
	75%+	04
	don't know	77
	missing	99
b) private attorney	under 25%	01
	25% - 50%	02
	50% - 75%	03
	75%+	04
	don't know	77
	missing	99

c) law students?	under 25%	01
	25% - 50%	02
	50% - 75%	03
	75%+	04
	don't know	88
	missing	99
d) prisoners' rights attorneys?	under 25%	01
	25% - 50%	02
	50% - 75%	03
	75%+	04
	don't know	88
	missing	99
e) court-appointed attorneys/public defenders?	under 25%	01
	25% - 50%	02
	50% - 75%	03
	75%+	04
	don't know	88
	missing	99
f) jailhouse lawyer?	under 25%	01
	25% - 50%	02
	50% - 75%	03
	75%+	04
	don't know	88
	missing	99
g) other ____________________?	under 25%	01
	25% - 50%	02
	50% - 75%	03
	75%+	04
	don't know	88
	missing	99

28. Which legal personnel do you think are the most effective for women in prison?

instit. attorney	01
private attorney	02
law students	03
prisoners' rights attorneys	04
court-appt./public defenders	05
jailhouse lawyer	06
other________________	07
missing	99

29. Why?

30. Which would you consider the least effective for female inmates?

instit. attorney	01
private attorney	02
law students	03
prisoners' rights attorney	04
ct.-appointed atty/ public defender	05
jailhouse lawyer	06
other____________	07
missing	99

31. Why?

32. Based on your own knowledge, do you think the availability of any of these legal personnel would be different in the men's prisons?

a) institutional attorney	yes	01
	no	02
	don't know	77
	missing	99
b) private attorney	yes	01
	no	02
	don't know	77
	missing	99
c) law students	yes	01
	no	02
	don't know	77
	missing	99
d) prisoners' rights attorney	yes	01
	no	02
	don't know	77
	missing	99
e) court-appointed atty/public defender	yes	01
	no	02
	don't know	77
	missing	99
f) jailhouse lawyer	yes	01
	no	02
	don't know	77
	missing	99
g) other________________	yes	01
	no	02
	don't know	77
	missing	99

33. Why?

recognize more need for men	01
men demand more resources	02
men know how to get resources	03
can't serve everybody	04
other	88
missing	99

34. Which legal personnel do you think are most effective in men's prisons?

instit. attorney	01
private attorney	02
law students	03
prisoners' rights attorney	04
ct.-appointed atty/ public defender	05
jailhouse lawyer	06
other________________	07
missing	99

35. Why?

you pay for what you get	01
you need a real atty	02
really committed to prisoners' needs	03
they know what inmate needs are	04
they have time to give each case attention	05
other	88
missing	99

36. Which legal personnel do you think are the least effective in men's prisons?

instit. attorney	01
private attorney	02
law students	03
prisoners' rights attorney	04
ct.-appointed atty/ public defender	05
jailhouse lawyer	06
other________________	07
missing	99

37. Why?

you get what you pay for	01
you need a real atty	02
not committed to prisoners' needs	03
don't know inmate needs	04
not enough time for each case	05
other	88
missing	99

38. Given the large number of pressing issues with which you have to deal, how would you rate providing legal resources to women in prison, on a scale of 1 - 5, with 1 being least important and 5 being most important?

1	01
2	02
3	03
4	04
5	05
missing	99

39. To the best of your knowledge, how does this institution compare with the men's, in terms of the law library?

equivalent	01
better than men's	02
worse than men's	03
don't know/not sure	77
missing	99

40. Sometimes, it is problematic to balance institutional and inmate needs. What institutional factors do you think need to be taken into account in providing legal resources to inmates?

security	01
staff concerns	02
resources for other programs	03
no. of inmates at instit.	04
budget	05
other	88
missing	99

41. Here is a card listing the different types of problems inmates may experience. How importation would you say each of the following concerns are to women in prison?

	Very Unimp.				Very Imp.	Women Concerned	Rank
a) child custody & family matters	1	2	3	4	5	%	
b) appeals to conviction, sentences	1	2	3	4	5	%	
c) prison programs	1	2	3	4	5	%	
d) disciplinary matters	1	2	3	4	5	%	
e) detainers, outstanding warrants	1	2	3	4	5	%	
f) jail credit time, good time	1	2	3	4	5	%	

42. What proportion of women do you think are concerned with each of these?

43. Which do you think is the most critical issue? (Ranking)

44. How important would you say each of the concerns are to men in prison?

	Very Unimp.				Very Imp.	Men Concerned	Rank
a) child custody & family matters	1	2	3	4	5	%	
b) appeals to conviction, sentences	1	2	3	4	5	%	
c) prison programs	1	2	3	4	5	%	
d) disciplinary matters	1	2	3	4	5	%	
e) detainers, outstanding warrants	1	2	3	4	5	%	
f) jail credit time, good time	1	2	3	4	5	%	

45. What proportion of men do you think are concerned with each of these?

46. Which do you think is the most critical issue for the men? (Ranking)

47. What do you think accounts for the differences or similarities between female and male inmates' concerns?

48. Based on your own experience, do you think there have been any changes in female inmates' concerns over the past five years?

yes	01
no	02
don't know	77
missing	99

49. What changes have you seen?

more concern with family matters	01
more concern with appeals, sentences	02
more concern with instit. programs	03
more concern with disciplinary matters	04
more concern with detainers, warrants	05
more concerns with credit/good time	06
less concern expressed	07
other	88
missing	99

50. Why do you think these changes occurred?

51. What proportion of male inmates would you estimate become active in legal matters?

under 25%	01
25% - 50%	02
50% - 75%	03
75%+	04
don't know/not sure	77
missing	99

52. What proportion of female inmates would you estimate become active in legal matters?

under 25%	01
25% - 50%	02
50% - 75%	03
75%+	04
don't know/not sure	77
missing	99

53. To what do you attribute the (similarities or differences) in percentages?

men are more active in general	01
men have longer sentences	02
men's needs are greater	03
an inmate is an inmate	04
other	88
missing	99

54. Have any class actions or individual suits come out of this institution?

yes	01
no	02
don't know/not sure	77
missing	99

[If no, skip to #57]

55. What were the issues?

legal	01
medical	02
transfers	03
vocational/ed.prgrms	04
jobs	05
don't know/not sure	77
other	88
missing	99

56. What was the outcome of the litigation?

decision for inmates	01
decision for instit.	02
pending, appeal	03
mediated	04
don't know	77
other	88
missing	99

57. In general, do you think court decisions in suits make an impact on a particular institution?

yes	01
no	02
don't know	77
other	88
missing	99

58. How responsive do you think the courts are to individual institutions' needs?

not at all responsive	01
slightly responsive	02
responsive	03
fairly responsive	04
very responsive	05
don't know	77
missing	99

59. Do you think inmates' suits are usually necessary?

yes	01
no	02
don't know	77
missing	99

60. Are there any alternatives to legal action for dealing with some of prisoners' concerns in this institution?

no	01
grievance mechanism	02
mediation	03
ombudsman	04
other	88
missing	99

[If no, go to #62]

61. How effective do you think such alternatives can be?

not at all effective	01
slightly effective	02
effective	03
fairly effective	04
very effective 05	
don't know	77
missing	99

62. (If no alternatives available) Do you have plans to institute such mechanisms?

yes	01
no	02
don't know	77
missing	99

63. Generally, do you think that males and females react differently to the problems of prison life?

yes	01
no	02
missing	99

64. In what ways do they act differently?

women talk, but do less	01
women more organized	02
women less organized	03
women more political	04
women less political	05
women more violent	06
women less violent	07
women more rational	08
women less rational	09
women more predictable	10
women less predictable	11
don't know	77
other	88
missing	99

65. Why?

66. Do you believe that women in prison are more passive than men, as is commonly believed?

yes	01
no	02
don't know	77
missing	99

67. What reasons can you suggest for this?

68. Does this have an impact on the way in which institutions for women are run?

yes	01
no	02
don't know	77
missing	99

Legal Issues, Women in Prison Research Project

CONSENT STATEMENT

To be signed voluntarily by each inmate participant:

Research topic: "The Legal Issues of Women in Prison"

I have read a description of the research project and agree to participate knowing that all the information I give will be treated confidentially by the research team, and I understand that I will not be personally identified in any of the research reports.

Signed (resident)   Date

Signed (researcher)